The Journal

of the



California Caucus
of College and University Ombuds

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California Caucus
of College and University Ombuds

The Right Stuff: The Habit, Heart and Science of Ombudsing

November 3-6, 2002

Asilomar Conference Center
800 Asilomar Conference Center
Pacific Grove, California 03050



This 2002 edition of *The Journal* is dedicated to our esteemed **Distinguished Ombuds**, **Ron Wilson**.

In 2002 Assistant Executive Vice Chancellor Wilson retired as Ombuds from the University of California, Irvine, after 27 years of service to members of the UCI campus community.

CALIFORNIA CAUCUS OF COLLEGE AND UNIVERSITY OMBUDS

THE RIGHT STUFF:
The Habit, Heart and Science of Ombudsing

Asilomar Conference Center, Pacific Grove, California
November 3-6, 2002

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The Journal 2002
of the
CALIFORNIA CAUCUS OF COLLEGE AND UNIVERSITY OMBUDS

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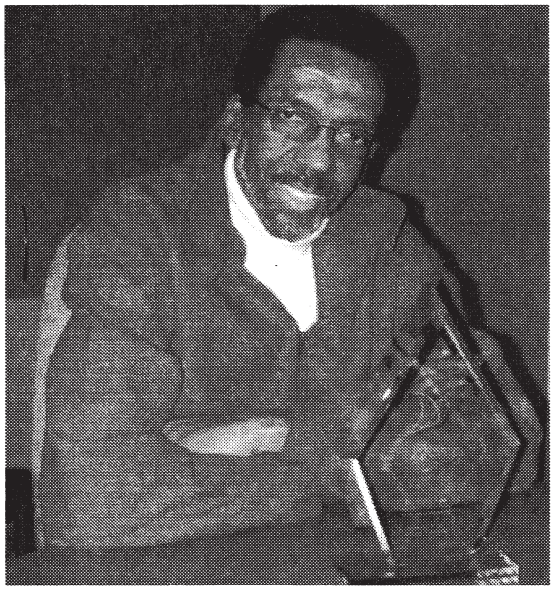
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In Honor of the Legacy of
Ron Wilson
Distinguished Ombuds Emeritus



This fourth edition of The *Journal of the California Caucus of College and University Ombuds* is dedicated to the legacy of Ron Wilson, Distinguished Ombuds Emeritus. By unanimous vote of the Editorial Board, it was agreed to honor Ron with this recognition for his outstanding contributions to ombudsing and to Cal Caucus.

During the 1987-88 academic year, Ron created, edited, and published *The Journal*. During the next nine years, Ron continued to serve as the editor. Through his vision and leadership, the articles which were published in *The Journal* during this period constitute the largest collection of writings by ombuds. Most of these articles are available on the Web at <www.ombuds.cui.edu>.

In 1998, Ron agreed to serve as co-editor of this peer-reviewed journal with Lois Price Spratlen. He has successfully worked with the Editorial Board and has helped to enhance the overall quality of the published content. *The Journal* remains the only professional journal of ombudsing.

Ron has been a very active participant in Cal Caucus for 20 years. During his tenure, he regularly made presentations at annual conferences. He founded the Awards Committee and served as the chair for many years. In addition, he served several terms as Convener or Co-convener of the annual Cal Caucus Conference. At the 2000-2001 conference, Ron served as keynote speaker and raised challenges in the areas of fair and reasonable processes, accountability, and, confidentiality--critical areas with which ombuds will always be concerned.

Ron was among the first participants in Cal Caucus who also served as the President of University and College Ombuds Association.

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At the University of California Irvine, Ron served as an administrator and staff member for more than 23 years and during 19 of these years, as the University Ombudsman and as an Assistant Executive Administrator to the Executive Vice Chancellor.

In 1997, he was appointed Assistant Executive Vice Chancellor and Interim Director of the Office of Equal Opportunity & Diversity (OEOD). In 1998, he was appointed Assistant Executive Vice Chancellor and Director of OEOD with responsibilities for the University Ombudsman Office and the Faculty & Staff Assistance Program (FSAP). During that year, Ron created the Cooperative for Problem Resolution, which served as an umbrella program that enabled him to draw upon the resources and talents of the professional counselors, and administrators in OEOD, FSAP, and, the University Ombudsman's Office.

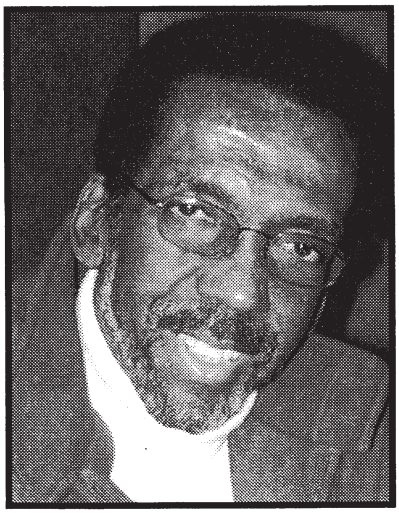
Ron enjoyed a long and very distinguished career at UCL. In June 2002, he retired from active service but continues to serve as an ambassador of goodwill for the university.

Because of his commitment to higher education and his many contributions to the ombuds profession, Ron has earned and merits the Distinguished Ombuds Emeritus Award.

CO-EDITORS

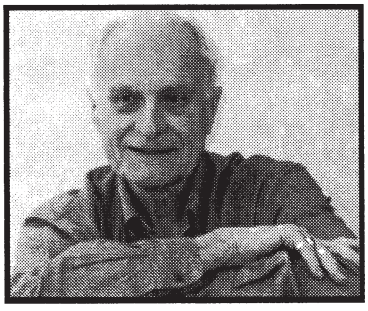


Lois Price Spratlen became an active participant in the California Caucus of college and University Ombuds (CCCUO) in 1988. She has served as Convener of the Annual Asilomar Conference and on three occasions as Co-convener. She is a member of the Awards Committee and served as chair for four years. In 1998, under her leadership, *The Journal* of CCCUO was established as the first and only peer-reviewed journal in the field of ombudsing. Lois serves as Co-editor of this journal with Executive Vice Chancellor Ron Wilson.



Ron Wilson is Assistant Executive Vice Chancellor and Director for the Office of Equal Opportunity and Diversity, U. California Irvine. His responsibilities include the Ombudsman Office, Faculty and Staff Assistance Program, and Campus Mediation Program. A 23-year administrator and a 20-year ombuds, he came to UCI as campus ombuds and Associate Dean of Students from UC Riverside, where he had served as Director of Student Affirmative Action. He is past president of the University and College Ombuds Association and is founder and Co-editor of *The Journal.*

MANAGING EDITOR



Eugene Smith retired in 1989 from a teaching career that began as an elementary school teacher and ended as Associate Professor Emeritus of English, University of Washington. He has always been intensely interested in writing and language study, an interest that has led him to continue writing his own books and editing other people's books, articles, dissertations, and journals. Currently, he lives with his wife in eastern Oregon, where he is director of the Union County, Oregon History Project, a coordinated effort to collect oral histories of long-time county residents and to produce a community encyclopedia.

From the Editors

Lois Price Spratlen and Ron Wilson

In the 2001 editors' note we informed readers of the collaborative initiative that we advanced and was accepted by members of the Editorial Board and the Managing Editor. This collaboration yielded six completed manuscripts from seven authors and fourteen positive relationships with ombuds who indicated a desire to publish an article in *Journal of the California Caucus of College and University Ombuds.* Five of the seven *Journal* authors are contributing manuscripts in this volume for the first time. Two authors previously published an article in the 2001 *CCCUO Journal.* Readers are strongly encouraged to give feedback directly to the authors or to send a letter to the editors expressing your reaction to this year's content.

There were seven ombuds who, for varying reasons, did not complete their articles in time to be included in this year's *Journal.* However, we will continue this collaboration until all ombuds who desire to do so have completed a manuscript for publication.

A very positive and unanticipated outcome from this approach to publishing has been the close relationships which several of the mentors established with those whom they mentored. For some this has been such a rewarding experience that we want to invite more ombuds to consider becoming a member of the Editorial Board or a mentor. There are more benefits associated with this method than creating a published article.

Writing can be a very lonely activity. Thus, it may not bring immediate satisfaction to even established authors. However, by establising a mentoring relationship it is possible to develop a bond with someone else--with rewards beyond the tangible outcome--which can be a source of satisfaction for both participants in this effort. Through this collaborative writing experience, each will assist in the advancement of the art of ombudsing--the purpose of the *Journal* of CCCUO .

Editorial
Ombudsing a Science—Not yet!

Lois Price Spratlen, Co-editor

At the 2002 Spring Conference Planning Committee meeting, those in attendance engaged in a bit of hyperbole in describing what we do as ombuds. When I saw the word *science* used in the conference theme, I knew that it should receive an editorial comment. In sharing my reactions, I want to suggest why ombudsing is not a science. Indeed, upon reflection, I believe that most of us who practice ombudsing would be more likely to agree that it is much more art than science. But first what ombudsing is not.

First, among the tools of science--observation, measurement, and scientific experimentation--we have only observation. And sometimes that is not as systematic as science would dictate. Even as social science we do not have an agreed-upon body of theory to guide our work. Most importantly, we generally do not interact with our clients in the dispassionate manner of the observant scientist.

Second, as ombuds we come to our work from quite different educational backgrounds. Further, we practice from the perspective of our academic disciplines. Since we practice in dissimilar ways, there is very little potential for replication, the identification of patterns or predictable outcomes or other characteristics associated with science.

Third, we control very little regarding the environments and circumstances under which we practice. Our "laboratories"--the offices and settings where mediation occurs--vary widely.

Fourth, the clients with whom we interact, seek to understand, and help also are quite different with respect to their roles as students, staff, faculty, and others in the college or university community. We lack a scientific basis for determining how we respond and evaluate what we do with and in relation to our clients' needs, expectations, and requests for help.

Finally, we lack an established body of empirical studies about ombudsing that could lead to generalizations regarding the services we provide.

So, in terms of the requirements of science, we come up short.

Yet ombudsing as a high form of art is an intellectually challenging, personally rewarding, and highly creative problem-solving process that seeks to prevent, manage, and resolve conflict. We use interpersonal communication, mediation, and varied disciplined-based skills and knowledge to deliver services in a variety of mainly academic environments. Some of us use the methods of counseling and intervention disciplines. Others use those of law and alternative dispute resolution. Some draw upon their backgrounds in art, dance, and music. Still others draw upon administrative experiences combined with academic disciplines as varied as the subject specialties in higher education--all accompanied by the essential attributes of impartiality, fairness, accessibility, a search for justice, and a commitment to serve the best interests and outcomes for our clients.

The institutions in which we practice must also provide us with the independence and assured confidentiality that is required of ombudsing at its very best. When combined with our shared aims and association in publishing what we know and do, we move ombudsing into the forms of scholarship that our peers and colleagues can recognize and respect. Indeed, we can take pride in what we have accomplished during the past 30+ years in contributing to fairness and justice in the institutions where we creatively refine and practice the fine art of ombudsing.

Comments on This Year's Conference Theme "The Right Stuff: Habit, Heart and Science of Ombudsing"

Lois Price Spratlen
(with a colleague's footnote)

This year's conference theme brings to mind the classic children's story *The Wizard of Oz,* in which Dorothy Gale is the leading character. Dorothy's adventure in the Land of Oz brings her into contact with a cowardly lion, a straw man without a brain, a tin man without a heart, and a deceptively "powerful" wizard, who is later exposed as a wimp. Dorothy's greatest desire is to return from Oz to her hometown in Kansas, where she has experienced love, acceptance, and understanding from her family and friends. Through courage, wit, and determination Dorothy exposes the true character of the Wizard of Oz and along the way learns many valuable lessons about human behavior before returning home.

Within this cast of characters, Dorothy is the one who really displays the right stuff--positive habits, a caring heart, and a search for truth that enable her to change the way the Wizard behaves. The Wizard had exercised his power by deceiving those who sought his help.

Ombuds interact regularly with clients who report the negative habits of colleagues, co-workers, and others whom they perceive as influencing faculty, staff, and students in negative and unhelpful ways. Our ethic is to assist all participants in the conflict and thereby help in bringing into being policies and patterns of behavior that contribute to the achievement of individual and institutional goals. Of course, most ombuds never publicly expose to the academic community those who exhibit negative or very inappropriate behavior, as Dorothy was able to do. Instead we promote a diplomatic change in relevant ways. Sanctions can be imposed through institutional authority, if bad habits warrant such action.

The human heart is the most important organ of the body. It must work 24-7 from birth until death. While the heart has an essential physiological function, it is also associated with an important psychological function--the place where our emotions and sensibilities to others reside. It is the source of our caring, and it links to our mind in defining our conscience. Our capacity to display caring is made possible by our ways of communicating with our clients: being available, accessible, acceptable, and sensitive to clients' needs. Thus we are physically and mentally present to listen and respond to clients in helpful ways. By knowing what we know and using our knowledge for the benefit of others, we demonstrate our usefulness to them and to the institution as a whole. Using educational and preventive approaches, we assist clients in developing competency in defining and serving their best interests.

At this point, we should recall once again that, while Dorothy was still in the Land of Oz, she displayed a great sense of timing and astuteness by out-smarting the Wicked Witch of the North and by exposing the deception of the Wizard. Under certain conditions when our timing and responses are correct, we get to a place like Dorothy Gale's home, in which we assist clients in achieving their goals.

During the mid-1960s ombuds offices and roles were created in academic settings in Canada and the United States. Our main func-

tions were (and still are) to serve the needs of members of the academic community and to promote the dissemination of knowledge, experiences, and understanding about ombudsing. Today, there are many electronic resources available for the exchange of information. Usually these oral exchanges are not recorded. In order to preserve and protect the art of ombudsing, we must record our knowledge and share it with the widest possible audience.

It is through sharing knowledge of ombuds practices that the highest level of art will emerge. In addition, it is through our openness to accept a diverse range of methods that we will accomplish desired outcomes comparable to those experienced by Dorothy Gale. In the ombuds tradition, she helped the other characters become whole, more accepting of themselves, and better able to represent their interests. The real moral of the story demonstrates that positive habits, caring hearts, and the persistent search for a fair process are enduring values to which ombuds subscribe in practice as Dorothy achieved in the Land of Oz and in her return home to Kansas.

This year, seven ombud scholars have elected to present and discuss the way(s) they carry out some aspects of their roles. Their articles will stimulate you to reflect upon and compare how you practice the art of ombudsing.

Footnote by Eugene Smith:

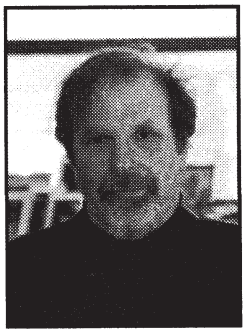
This year's conference theme brings to other minds the non-fiction book by Tom Wolfe *The Right Stuff* (1979), not to mention the movie of the same name (1983) that brought the likes of Chuck Yeager, Guss Grissom, and John Glenn to glorified life. Since the characters and the subject matter of the book and the movie are more recent additions to popular culture than *The Wizard of Oz*, macho images may take precedence in those minds over the adventures of the plucky Dorothy.

By NASA standards, astronauts are macho, young men (and sometimes women)--narrowly intelligent, inexplicably fearless, and risk-prone. They endure rigorous training and enjoy going where none has gone before--whether it be merely orbiting around Earth or blasting off to Earth's moon. If they have doubts about their own or others' safety, they suppress them, putting their faith in engineers who design rocketry and monitor gravity-defying exploits. Indeed, they must act as if obsessed by single-minded purpose, whose relationship to everyday life is remote, if not impossible to detect.

Where does this macho image take us with respect to ombudsing? Since ombudsing is not a science--and let us hope it will never aspire to be the kind of science that NASA likes--the hearts and habits of astronauts seem an unlikely analogy for ombuds. Would you rather have Chuck Yeager over Dorothy as an ombuds?



Arnold Medvene was the Faculty Ombuds Officer at the University of Maryland from 1994-1999. He is a senior staff psychologist at the Counseling Center (U.M.) and an associate professor in the College of Education, where he works with undergraduate and graduate students, as well as staff, faculty, and administrators in conflict management. As a board member of the Washington, D.C. Center for Life Enhancement, he will provide workshops in dispute resolution for organizations interested in facilitating staff development and personal growth.



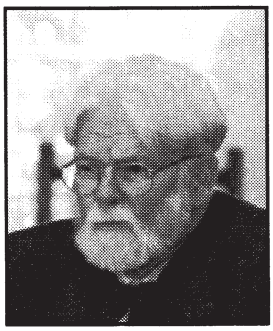
Myron Schwartzman is Professor of English at Bernard Baruch College (NY) and has been ombuds there since 1995. He was educated at Columbia College, the University of London, and SUNY Stony Brook, where he earned a Ph.D. in English. A widely published author, with articles in such journals as *James Joyce Quarterly* and *Modern Fiction Studies*, he is also a jazz pianist. For six years he played with Larry Rivers' East Thirteenth Street Band, which he co-founded. He has been active in CCCUO and ECOG. See his article, "Notes from Underground: An Ombuds' Dostoyevskian Journey in Academe," on p. 63 of the November, 1999 *Journal* of CCCUO.



Barbara Schaffer has been a faculty member in English and Women's Studies at DePaul University, Chicago for the past 12 years and has been the University's Sexual Harassment Ombuds since 1994. In addition to her roles as ombuds and teacher of writing and rhetoric courses to graduate and undergraduate students, she has helped create curricula and has participated in international programs regarding women's and gender-equity issues. She has traveled to Vietnam and Hong Kong to participate in programs regarding sexual harassment and the status of women in the workplace, and in the past two years she has taken a group of DePaul students to Scotland to study Scottish parliamentary devolution and its gender-equity political agenda.



Tom Sebok has been an ombuds since 1990 and the Director of the Ombuds Office at the University of Colorado at Boulder since 1992. From 1995-99, he was Secretary for the Board of the University and College Ombuds Association. He serves on the editorial board for a professional journal dedicated to ombuds practice. He has published seven articles in *The Journal of the California Caucus of College and University Ombuds* and has made numerous presentations at regional and national conferences related to conflict management and ombudsing.



Geoffrey Wallace, Ph.D. is in his 32nd year as a full-time, chartered university ombuds. Geoffrey is a founder, with Don Hartsock and Bill Shatz, of the California Caucus of College and University Ombuds. He enjoys working with the Stanley V. Anderson collection of twelve hundred works on ombudsing. He brings extensive and significant knowledge of mediation, conflict management, and other areas of alternative methods of dispute resolution to the board. He resides in the Painted Cave Community, three thousand feet altitude above the town of Santa Barbara. Among his hobbies, he likes to pilot human-powered vehicles (trikes and bikes) and M3s. In cycling, he has been five-time state champion in pursuit, time trial, and road racing.



2001 Service Excellence Award

Andrea Briggs has served as ombuds at the University of California, Riverside, since 1981. In that time she has explored the nature of justice and how a third party can be useful in effecting it, the psychological underpinnings of conflict-free situations (such as openness, compassion, trust), and community-building as a holistic approach to conflict resolution and prevention. She is an expert in ethics for the ombudsman and in resolving conflicts in which poor communication and lack of interpersonal understanding are significant barriers. Currently she is exploring the intentional development of the personal peacefulness of the conflict resolver as a tool of the trade.

Andrea has attended every Cal Caucus conference since 1981 and has served a number of times as Convenor of the annual training conference for the California Caucus of College and University Ombuds. She chaired the former University and College Ombuds Association (UCOA) Ethics Committee, was previously a Director at Large on the Board of Directors, and currently serves as secretary for the UCOA Board of Directors. She is a member of ACR, USOA, IOI, and TOA, and serves on the TOA Research Committee.

Extending her peace-making skills to the greater community, Andrea has just completed a three-year term as Chair of the Board of Trustees of the Riverside non-profit organization Inland Agency, which provides health-promotion and violence-prevention services to disadvantaged citizens of the region. In that capacity, she was awarded the Volunteers Who Make a Difference Award at the annual Make a Difference Day dinner in October, 2001. She is currently looking for a new volunteer activity in the Riverside area.

Andrea holds a B.A. in Religion and Psychology from Swarthmore College and an M.A. in the History of Religions from the University of Chicago Divinity School. She is married to a UC Riverside faculty member and is the mother of three children, ages 21, 18, and 14. She enjoys reading, cooking, and laughing with family and friends and is just beginning to pursue running as a new hobby.

The Journal
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Mission Statement

We are committed to publishing the highest quality of scholarly and professional articles submitted for publication. We will publish articles by and about ombuds that provide insights into and understanding of our institutional role, practice, and contributions. Manuscripts and materials submitted will be peer-reviewed. We use a collaborative approach to publishing, in which prospective authors receive constructive critiques from reviewers in an effort to increase quality of the content of *The Journal.* Our main purpose is to enhance understanding of the art and practice of ombudsing.

ABSTRACTS OF ARTICLES IN THIS ISSUE

"The Ombuds Role in Exploring the Place of Restorative Justice in College and University Campuses" by Martine Conway and Gary Insley

The authors provide a brief historical overview of the growth of interest in restorative justice as an alternative to the existing justice systems used in Canada and the United States. They trace to Canada current international interest in this form of justice-doing. This model of justice was introduced in Canada by the Royal Canadian Mounted Police and used initially in youth justice. Soon public schools were introducing this form of justice into their system. Administrators in colleges and universities have begun to explore how restorative justice methods can be adopted in Canadian institutions.

These authors describe how a restorative justice model was adopted and used in their institution. The case presented in this paper met all of the appropriate conditions for using this restorative justice model. However, the authors concluded that ombuds should exercise discretion to ensure that principles of independence, impartiality, and other guides outlined in UCOA principles are not violated.

"Visitor Expectations, Power, and the Resolution Process" by Alan Lincoln

Lincoln discusses the expectations and reservations that some visitors express to him when they request help from his ombuds office. Since predictability in social interactions is central to effective communication, he orients each visitor to his approach to service delivery. Central to his framework is an awareness of the power differential which exists between himself and those seeking help, whatever their status as faculty, staff, or student at his university. As ombuds, the writer takes advantage of the most appropriate power resources for the resolution of the visitor's conflict(s). The organizational guidelines from UCOA and TOA inform his approach to service delivery, along with the mission statement related to his office and university values. Lincoln is the first ombuds appointed at the University of Massachusetts Lowell.

"The Medium and the Message: Confidentiality and E-mail Discussion Lists" by Barbara Schaffer

The article addresses electronic communication among ombuds, analyzing the benefits and limitations associated with this form of speech. Shaffer directs particular attention to confidentiality and the actual and potential risks that exist if this communication is used by unauthorized users. The major benefits of electronic communication are that it serves to reduce ombuds' isolation, and it contributes to a potential global affiliation among ombuds.

"The Power of Questions in Mediations" by Mauricio Ramos

Ramos discusses the role of questions as a resource for engaging visitors in problem-definition, problem-management, and dispute-resolution processes. Using questions as means for exploring dimensions of conflict, he describes how he decided to use this approach during mediation sessions. The conceptual framework which guides his use of questions is embedded in the acronym *IDEA*.

"Student Empowerment: Selected Roles and Contributions of the University Ombuds" by Deborah Eerkes

Eerkes, who serves her institution as an ombuds and as Academic Integrity Program Manager, discusses two cases, explaining her approach for helping students to gain increased skills and knowledge of the problem-solving and conflict-management and resolution process. This participatory method builds clients' competencies that

may empower them to manage or prevent such problems in the future. While working with clients, she provides informal education. Such interactions by the ombuds extend education into areas of the university community outside the classroom.

"Reflections of a Budding Ombuds: The First Two Years" by Misa Kelly

Kelly chronicles her educational journey in being a knowledgeable and competent ombuds. After being selected to serve as an assistant to the ombuds, she read the literature on ombudsing and developed a list of articles, books, and other resources that helped her become effective in helping ombuds' clients. Her background in the arts served as a launching pad for the artistic coloration of her evolving journey in ombudsing.

Thanks and Farewell

Myron Schwartzman has stepped down as ombudsman at Baruch College, having served in this role for two consecutive terms--1995-2002. In late summer, a tick bite nearly killed him, but he made a successful recovery with expert care from the staff at Rush Rehab Institute coupled with his own determination to live. As Myron has returned to his role as Professor of English, he also bids farewell to the CCCUO Editorial Board.

Thanks to Myron for being such a diligent member of the Board.

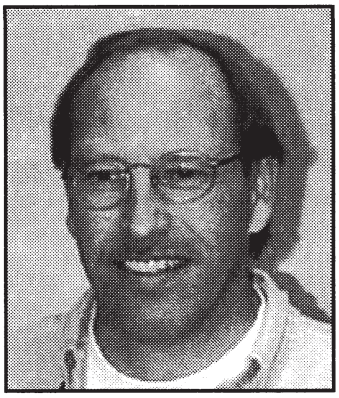
Welcome

Alan Jay Lincoln of the University of Massachusetts Lowell, has agreed to join the Editorial Board of CCCUO, beginning immediately. We welcome his contributions.

Ombuds and Restorative Justice on Campus: A Canadian Case Study

Martine Conway and Gary Insley





Martine Conway has served as ombuds at the University of Victoria, Canada for the last three years. She came to Victoria with over ten years of university teaching experience and a background in conflict resolution, workplace mediation, and interpersonal dispute resolution on campus.

In 1999, she was trained in the facilitation of community-justice forums and has conducted several youth restorative justice forums at the pre-sentencing stage. She sat on the board of the Community Justice Association of Greater Victoria (2000-2001), where she was instrumental in the development of training for volunteers.

Martine holds an M.A. in English from the University of Chambery, France. Before ombudsing, she taught English and French in workplace and community programs for adult learners from diverse cultural backgrounds. Her interests include language, discourse, and their use in conflict analysis and resolution.

Gary has a wide range of experience and training in conflict resolution, criminal and civil justice, and restorative justice. In the mid-1970's he served as a UN Peacekeeper with the Canadian 73rd Battalion in the Middle East. For that mission he was awarded the United Nations Service Medal, the Canadian Peacekeeping Service Medal, and in 1988 he was among the many UN peacekeepers that were awarded the Nobel Peace Prize; he also received the Nobel Peace Prize medal from the government of Norway.

Gary has had a long standing interest in restorative justice, arising from his career as a police constable in Ontario. He has worked with youth in a variety of settings, including serving as Assistant Administrator for Kiwanis International of western Canada, where his primary role was assisting local Kiwanis clubs in the start-up of youth programs in high schools, colleges, and universities.

After receiving training by the Royal Canadian Mounted Police (RCMP) in 1998 as a restorative justice facilitator, he was lead facilitator in over 20 cases. In 1999 he began training other facilitators in the community-justice-forum model of restorative justice. Gary also call assisted a number of communities across British Columbia in establishing community-justice programs. He has sat as a plenary panel member for the British Columbia Ministry of Attorney General in regional training workshops and has participated in a Canada-wide RCMP study on restorative justice.

Gary presently is ombudsman at Camosun College in Victoria, B.C. and is completing a master's degree in organizational leadership and training at Royal Roads University.

Restorative Justice Principles and their Introduction in Canada

In this paper we will review the origins of restorative justice, look at modern initiatives, and discuss to what degree, if any, college and university ombuds should be involved in restorative justice initiatives on campus.

Restorative justice in concept and practice is centuries old. In the past, communities were smaller and somewhat remote from any central governing body. Problem solving and dispute resolution were often handled by councils, tribunals, or elders. Present day traditional societies have similar characteristics. In such systems, disputes are often resolved in open forums with members of the community. The community's morals and traditions are guiding principles in determining how harm will be repaired. Offenders often have to face their victims, and the focus is on repairing harm done to individuals.

In the United States and in Canada, the justice system is based on the concept that the state is responsible for the administration of justice, and the state imposes sanctions in order to make retributions on behalf of victims to uphold law and order. State-run systems of justice have been criticized for being adversarial, based on punishment, and not victim-focused. On the other hand, restorative justice is not only centered on the victim, but it encourages community involvement and responsibility-taking. Healing, repairing the harm, and reintegrating offenders into the community are cornerstones of the modern day restorative justice movement.

In New Zealand during the 1980s, a group of individuals began looking at the justice system and comparing it to the Maori aboriginal system. As a result of their work, a community-based concept of justice was developed. The guiding philosophy is that the community is the best place to deal with offending behavior, that victims are essential to understanding consequences, offenders need to be confronted with the consequences of their actions, and justice is best determined by those directly affected. The model developed in New Zealand was formally adopted by that country in 1989, and in 1990 the system moved to Australia. The model was further refined and used with outstanding results in reducing youth crime. In 1994, this model was implemented in the high school system in Australia, and in 1996 the Royal Canadian Mounted Police (RCMP) brought this model of justice to Canada.

Since 1996, this model has been further adapted by the RCMP to reflect Canadian culture. Restorative justice forums have been used in Canada and in the U.S. at pre-charge, post-charge, and pre-release stages in the criminal justice system. The majority of Canadian cases have dealt with youth at the pre-charge stage, and forums frequently involved the school or college attended by the youth. Elementary and high schools began to realize the value of applying restorative justice principles to their internal systems, and there is now an interest in introducing these concepts in colleges and universities, particularly by some institutions in British Columbia.

Dispute Management and Discipline in Colleges and Universities

Campus dispute-management systems tend to have certain characteristics. They are often reactive, taking the form of appeals and grievances. In fact, policy-making itself is often a reaction to a new set of circumstances. Dr. Steven Olswang, Vice-provost of Academic Affairs at the University of Washington, describes formal intervention systems as adversarial. According to him, they "do not promote a resolution but, instead, establish a framework for a winner and a loser to emerge." (Olswang 2001). In our courts of justice, a dispute is framed in terms of law. On campus, policy and procedure documents define which disputes can be pursued and on what grounds. Like the judicial system, campus mechanisms provide remedies and penalties, and, like the courts, campuses have to strike a balance between the requirements of formal due process and the promise offered by more informal conflict-resolution options.

The critique levelled at adversarial systems within organizations parallels the critique of the judicial system. On campus, these systems take the form of step-by-step procedures moving to increasingly higher levels of authority. They can seem long and intimidating to parties in disputes. The dispute must be fitted to existing mechanisms, which means that not all questions relevant to the parties can be addressed by the system. By the time a dispute reaches the higher echelons in the system, it has involved the time and energy of many individuals, frequently at high cost to the institution. Finally, such mechanisms do not necessarily trigger a wider reflection on how effectively the system as a whole works at preventing or resolving conflict.

Alternative Dispute Resolution (ADR) mechanisms are often introduced in response to this critique. In a 2001 article, Rowe and Bendersky reviewed current trends in organizational conflict management. They described an effective conflict-management system as including, among other elements: "options in parallel rather than rigid step procedures," "appropriate delegation to first parties," and "continuous oversight by a balanced group." (Rowe and Bendersky, 2001: 5-7). They also quoted Costantino and Merchant (1996: 121), who proposed that effective ADR systems "allow disputants to retain maximum control over choice of ADR method and selection of neutrals whenever possible."

Given its philosophy, restorative justice could become one more ADR option available to campuses. Colleges and universities are often called communities. They form complex, integrated units within our larger society, with their own physical settings and internal governing principles. Authority exists both at the campus-wide level and within specific units to make policy and to impose discipline. It is therefore not surprising that a few institutions are introducing restorative justice programs on their campuses. Sebok (1999) and Karp, Breslin and Oles (2002) described campus justice programs designed to encourage participation, accountability, and inclusion.

Ombuds Practice as it Relates to Restorative Justice Principles

Ombuds offices are another aspect of the use of ADR mechanisms on campus. Practitioners often describe their work as facilitating the resolution of disputes at the lowest possible level. The tools they use include mediation or conciliation skills, and they help parties move from a positional stand to a discussion of interests and options. In these types of interventions, ombuds can be said to facilitate the restoration of working relationships among parties, be they students, administrators, faculty, or staff. In that sense, ombuds work is indeed restorative in nature.

People come to the ombuds to ensure they receive fair treatment. Therefore, the office also has an interest in seeing that the campus provides balanced justice. This leads to another dimension of the ombuds role--that of change agent. The office functions as a feedback mechanism, providing information and recommendations to the institution on its policies and procedures. According to the University and College Ombuds Association's (UCOA) Standards of Practice, the ombuds is "an advocate for good and fair process" and "should recommend and advocate for responsible and appropriate systems change." (UCOA Website)

For these reasons, any exploration of the potential of restorative justice models on campus should be of particular interest to ombuds. The fact that some ombuds' offices participate directly in restorative justice pilot projects raises questions as to the degree of involvement for the ombuds office.

Case Study

A series of incidents occurred in a student club on campus that resulted in one student's insulting a number of club members and breaching the student code of conduct. The matter could have been handled through the campus judicial system, but club members felt that there should be a way

for students to deal with it themselves. Given the nature of the club and the students involved, the faculty advisor felt that it would be a good opportunity to have the ombuds office assist in resolving the dispute.

The ombuds office received the call and determined that the situation did fit the mandate of the office to offer conflict-resolution services to students. An interview with the faculty advisor revealed that all club members had agreed to have the ombuds office facilitate a resolution. The ombuds was trained and experienced in facilitating restorative justice forums. The restorative justice process was outlined to the faculty advisor, who thought it would be very beneficial, given the nature of the offenses.

All members of the club were interviewed as part of the pre-forum process, and restorative justice was explained in detail. All club members again affirmed their willingness to participate. A restorative justice forum was conducted within 10 days of the last incident and within 5 days of the ombuds' office's receiving the case. The results were very positive, given the feedback received from the offending student, faculty advisors, and club members.

Once the process was completed, the ombuds office conducted a review with its governing committee and with external ombuds. The situation had met all the requirements for a restorative justice approach. The forum was held as an alternative to an existing formal process. It identified a community, a breached norm or rule, a wrong-doer, and affected parties. It was an opportunity to put the dispute back in the hands of the parties and to allow them to come to an agreement about the appropriate way to resolve the conflict and repair the harm--and it was voluntary for all participants. Still, the review raised a number of interesting questions about the role of the ombuds and the critique of restorative justice.

Ombuds' Role and Mandate

The ombuds at this institution is a single person office with no support staff. If the forum had not worked out or if there had been a complaint about the actions of the ombuds in the process, there would be little or no recourse for the students involved. The review also pointed out that the restorative justice forum was held in place of the internal disciplinary system. Regardless of staffing levels in the office, involvement of the ombuds in restorative justice forums could have implications regarding perceptions about two critical ombudsing principles: objectivity and independence.

UCOA standards of practice include the following:

> 1.3 The [o]mbuds should have no assignment of duties that would present a conflict of interest to her/his duties as ombuds. . . .
> 1.4 The [o]mbuds is independent of the units which the office informally investigates or examines. . . .
> 2.1 The [o]mbuds has no personal interest or stake in and incurs no personal gain or loss from the outcome of an issue. . . .
> 2.2 The [o]mbuds avoids situations which may cause or result in conflicts of interest for the [o]mbuds. . . . (UCOA Website)

It is obvious that an ombuds who took a direct role in setting up a restorative justice program and facilitating restorative justice forums would be in a position to come into conflict with any one of those principles. And it is doubtful in those circumstances that people would believe the ombuds is bias-free about the restorative justice process itself.

Another set of principles from UCOA standards of practice relates to the ombuds' role in informal versus formal dispute resolution:

> 4.2 The [o]mbuds supplements, but does not replace, any steps required in formal internal or external procedures. (UCOA Website)

It is true that an ombuds may intervene and informally facilitate a resolution between parties at any point in a developing situation. But there is a difference between 1) the ombuds' doing so as part of an informal process structured by the ombuds' office and 2) that same ombuds' responding to a request to conduct a restorative justice forum. Restorative justice is not a mediation between two independent parties. It is an alternative to a formal disciplinary system, often with requirements in terms of record keeping. Even if the agreement sought is designed to be restorative, the process clearly identifies a wrongdoer. There is a risk for the ombuds to come in conflict with principle 4.2 of UCOA standards and to be perceived as part of the disciplinary process.

The Place of Restorative Justice in Colleges and Universities: A Critical Look

At the lower levels of dispute-resolution mechanisms on campus, decision makers are often also parties to the disputes. Students and their peers or their instructors, staff and co-workers or supervisors, faculty members, and colleagues or department heads may find themselves in situations where an action by one of them results in strained working relationships for the group. It is at those levels that ADR and restorative justice can provide the most appropriate and effective interventions.

It is also at those levels that parties raise concerns about bias and due process. A student may question the instructor's ability to make an unbiased decision after a conflict in the classroom. Or an employee may object that he or she wasn't given a chance to be heard before a penalty was imposed. Appeal or grievance procedures can correct inappropriate decisions, but they do not account for how the process **feels** to parties. Perceptions of bias may not be addressed; peripheral matters may not be resolved--resulting in continued strained relationships.

On the other hand, ADR and restorative justice, by their very nature, provide processes that encourage a full exploration of concerns and the restoration or transformation of relationships. They can offer differential outcomes to suit different circumstances. And proponents tell us that restorative justice leads to agreements that are acceptable to all involved. Statistics available for restorative justice in Canada indicate high levels of compliance and satisfaction by all parties, as well as low levels of repeat offenses (RCMP Community Report 2000).

One reason for this success is the fact that cases are screened before they are referred to restorative justice. The other reason is motivation: the drive to find constructive options when participants are brought around a "circle" with the common understanding that they are there to take responsibility for what happened and to contribute to the solution.

But there are potential pitfalls to the use of restorative justice. Speaking of the model as it relates to the court system, Kate Warner said:

> [It seems] to have something for everyone. Inevitably though, reservations, notes of caution, even dangers have been raised. These concerns include breaches of due process, pressures to plead guilty, power imbalances, harsh disproportionate or inconsistent penalties, "netwidening," double jeopardy and sex discrimination. (Warner, 1994: 141) [Here, *sex discrimination* refers to considering certain behaviors as acceptable for one gender but not for the other, therefore enforcing norms differ-

ently. We won't discuss it in the context of this article.]

Wright (1996: 229) also stated:

> When introduced in an adversarial and punitive system, mediation could lead to three problems: pressure on victims to take part, infringement of defendants' rights to due process and inconsistencies among outcomes. [In this sentence, *mediation* is equivalent to *restorative justice process*.]

Are those concerns relevant to the campus, and if so, what is an appropriate role for the ombuds? Let us first look at the components necessary to a restorative justice program. On a campus with a judicial affairs system and a code of conduct, the restorative justice program can be set up as an alternative to the formal tribunal. But some campuses do not have centrally enforced codes of conduct. In theory, they could still introduce restorative justice concepts. They would need to identify a formal disciplinary process (a policy with possible penalties) and a community (such as a department or a campus residence building), where a breach of the norm normally leads to sanctions and affects one or more parties.

On a campus, "netwidening" could happen if people use the restorative justice process to deal with situations that would not normally be processed through existing mechanisms. In fact, when people start exploring the idea of restorative justice, they often see ways of expanding the realm of intervention. They wonder if the process would be a way to deal with matters that do not fit neatly under the policy or are not serious enough to warrant a sanction. They are usually motivated by a desire to bring healing to parties or to provide them with a learning opportunity, in particular to help offenders make better future choices.

Hudson and Galaway discuss this aspect of the critique as it relates to the justice system. They point out:

> Expanding the system of social control to ensure that reasonable actions are taken in regard to all offenders may not be undesirable. The key questions are what is reasonable, who decides, and what is the degree of formality or informality in the process. (1996: 12)

Still, any discussion of this nature on a campus raises questions of fairness and could benefit from input by the ombuds.

Pressure to participate or pressure to admit responsibility is related to the concern of netwidening. People may feel pressured to engage in the process because of expectations by their peers, supervisors, or instructors. And they may not know how the situation would be handled (or if it would actually be handled) by the formal system.

Pressure is also linked to questions of power. People may feel pressured if they have a lot at stake--remaining in residence, continuing in a professional program, keeping a job--and if they see themselves as having little power. The person identified as the offending party may feel pressured if those affected are in a relative position of authority (e.g., instructor, supervisor, residence staff). During the process, power imbalances can lead to disproportionate penalties; restorative justice, because of its very nature, does not ensure consistency of remedies.

Finally, questions about possible double jeopardy can arise where jurisdictions are ill-defined or policies overlap. Students, for example, could be facing several formal or informal procedures in response to one situation.

The concerns listed above are not limited to the introduction of restorative justice programs. They also play out in formal processes, although differently, and they can be offset by appropriate safeguards. For example, the risk of double jeopardy can be avoided by discussions and agree-

ments among stakeholders. Other concerns can be addressed by careful consideration on how to set up the program and by vigilance about how forums are conducted.

Some of the due process protections related to restorative justice include ensuring 1) that parties make an informed decision when they agree to participate, 2) that they have support persons during the process, and 3) that participation is voluntary throughout the process. Facilitators would be trained to recognize and deal with these potential problems. However, depending on resources available, more energy may be placed on getting the program going than on exploring ethical questions. It is also true that a certain degree of enthusiasm infuses any program of this nature. Consequently, organizers may benefit from input by an outside entity, like the ombuds, with experience in reviewing processes and procedures.

Conclusion

What is the role of the ombuds in exploring options for restorative justice on campus? It is clear from the discussion above that the degree of involvement by the ombuds office has a direct impact on the ombuds' core mandate to remain free of bias or conflict of interest. Given the need to avoid even the appearance of conflict of interest, we believe it is advisable for ombuds not to become directly involved in setting up or administering a restorative justice program or in facilitating forums.

On the other hand, it is critical for the ombuds' office to be involved in discussions about using restorative justice on campus. The ombuds has a responsibility to advocate for fair processes and for the introduction of appropriate mediative options, including restorative justice. The ombuds also has a duty to educate the campus community and to engage in debates shaping the future of justice systems on their campuses.

The Council for the Advancement of Standards in Higher Education has published guidelines for judicial programs and services. One of them is to "provide learning experiences for students who are found to be responsible for conduct which is determined to be in violation of institutional standards . . ." (1997). Restorative justice certainly has a great deal to offer in this respect.

On the other hand, Laura Nader has written extensively about the limitations of alternative dispute-management processes when they are not accompanied by appropriate reflection. In light of the concerns we raised regarding possible pressure and power imbalance, we think her analysis provides valuable insight. In a 2001 article for *Chronicle of Higher Education*, she said, "[M]any students today were taught dispute resolution in elementary and secondary schools, at the cost of trading justice for harmony." And she reminded us that "[academics] have a duty to investigate the dangers of coercive harmony."

In this context, the ombuds must be open to explore constructive alternatives to existing procedures while remaining vigilant about the rights and responsibilities of all parties involved. We would like to encourage fellow ombuds to inform themselves about restorative justice and to promote dialogue about the process on their campuses. We can learn from existing pilot programs and from other attempts at introducing the concept to the campus. We should consider our core mandate before committing to any degree of involvement, but we can all participate in educating our communities about the characteristics of a successfully implemented project.

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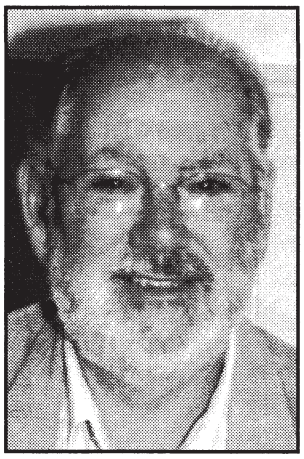
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Visitor Expectations, Power, and the Resolution Process

Alan Jay Lincoln



Professor Lincoln joined the faculty of UMass Lowell in 1977, when he became the first member of the new Criminal Justice program. After earning master's degrees in psychology and sociology and a doctorate in sociology, he completed a postdoctoral National Institute of Health program in family violence and also held a Fulbright professorship in The Netherlands. Lincoln is the author of numerous articles and three books on crime and violence and a former journal editor of *Library and Archival Security*.

He is the first faculty member to serve in the UMass Lowell ombuds position, which was created in 2000. He previously served three terms as graduate coordinator and eleven years as Special Assistant to the Graduate Dean. Recent training includes certification as a mediator.

My short lunch break is over and it is almost time for my 1:00 visitor. I'm thinking, "Am I ready for this one? I've heard around campus that this professor is bright, but he can be arrogant, hostile, and unreasonable." The specific matter to be discussed is unknown, but his message sounded urgent and mentioned a student's complaining about his behavior. I decide to deal first with the easy, more manageable aspects of the upcoming visit.

The office is reasonably neat, and the round conference table has the introductory materials ready to be shared with my visitor. Coffee is out of the question--no stimulants but ice water will be fine. I clearly mark my seat with some personal items--a pen, notepad, and bottle of water. The normal, soothing background music seems appropriate, and the phone is put on "do not disturb." The setting is ready. I have arranged things to keep both my visitor and me comfortable. Am **I** ready?

This might be a good time to interrupt the scene-setting and to review the history of our ombuds' office. The University of Massachusetts Lowell is one of the five UMass campuses, located about 25 miles northwest of Boston. Lowell is a city of nearly 100,000 with a rich history of labor activity and population diversity. We serve about 6,000 undergraduate and 3,000 graduate students in a wide variety of bachelor's, master's,

and doctoral programs. Currently, we have over 400 international students and an active continuing and corporate education college. Many of our undergraduate students commute, and most of the graduate students are full-time employees off campus.

Since establishment of the UMass Ombuds Office in 2000, I have served as the first appointed ombuds in a one-person operation. Initially, my focus was to assist with sexual harassment and affirmative action concerns. Now, in a desire not to turn any visitors away, the office responds to a full range of complaints for all students, staff, faculty, and administrators.

As a new ombuds in a new ombuds office, I have been particularly concerned with the campus community's perceptions and expectations. Developing a clear understanding of our role and processes is an ongoing process. The office was established using guidelines and policy recommendations suggested by UCOA and TOA. In fact, the TOA code of ethics and standards of practice are on my door, with copies given to every visitor as part of the introduction. They are repeated on my Website along with other relevant information borrowed--and modified--from UCOA and numerous campus ombuds' offices.

The university statement alludes to several of the matters we are discussing here and attempts to provide a clear definition of the scope of ombuds activities, abilities, and limitations:

> The UMass Lowell [o]mbudsperson is an impartial observer appointed by the Chancellor to help resolve the problems that may develop in the university community.
>
> The [o]mbuds [o]ffice is particularly helpful with a problem that has not been resolved through other channels. Students normally should contact the [o]mbuds [o]ffice only after discus-sions with faculty, department chairs, and/or the college dean. Communications with the [o]mbudsperson are confidential. The [o]mbudsperson does not replace [u]niversity appeal procedures, but provides an additional source of information and assistance with rules, procedures, and regulations of the campus. The [o]mbudsperson will listen to your concerns, investigate an issue, discuss options, and provide information that answers your questions or puts you in contact with someone who will assist you.
> We will help you identify equitable options for solving problems and do not take sides. The [o]mbudsperson cannot intervene in formal grievance procedures or reverse decisions by university officials. The [o]mbuds [o]ffice is one additional way the university attempts to be responsive to the needs of the campus community.

Am I ready for my visitor? What experience and qualities do I personally bring to the table?

- years of training in social psychology and sociology
- research and teaching about conflict, victimization, and group relations as background
- only two years' experience as ombuds but noticeable improvement in listening capacity
- a continuing faculty appointment
- commitment to just and equitable outcomes
- the backing of the provost and the chancellor
- training as a mediator
- enjoyment of my work.

Social and behavioral scientists are familiar with the elements I've listed: social setting, background and training, expectations, personality, power and control, sense of justice, stress, com-

munication process, and so on. In fact, we recognize that our behavior and the behaviors of others we interact with are influenced by some combination of these personal and social factors. (Lindesmith *et al.* 1975).

The problems I typically encounter as an ombuds are more manageable when I address potential pitfalls, including clarification of important concepts and principles, visitors' expectations about what and how things will happen, and the relative power resources of each of the participants. This article will examine why attention to visitors' expectations, definitions being used by participants, and power resources needs to occur on a continuing basis.

What is my next visitor bringing to the table? Even though we haven't met, some things are certain:

- a set of expectations about what will occur (and what norms apply) in the ombuds' office, maybe reasonable maybe not
- his training and background
- stress and uncertainty about the situation and its implications
- goals and perhaps a resolution strategy
- his power resources
- "facts" about and an interpretation of the confict.

The interaction is about to begin. I suggest that the following social psychological propositions guide me in my work as an ombuds:

- We generally strive to reduce uncertainty and improve predictability in our interactions.
- Interaction is more productive when we share common definitions and expectations.
- We have and use a variety of power resources to influence others and resist being influenced. (French and Raven 1959; Lincoln and David 1976, Guerra and Elliot 2001; Erchul *et al.* 2001)

Let us turn our focus to how expectations and emerging norms, social definitions, and social power relate to the role of the ombuds. The illustrations will examine a hypothetical meeting between the ombuds and one visitor, but an application to meeting with multiple visitors is a reasonable inference.

Expectations and Emerging Norms

Notice that each of us enters the initial meeting with a set of expectations about what will happen and about the norms governing behavior. My expectations are based on a series of similar experiences, while my visitor probably has minimal experience with an ombuds' office. The perfect accuracy of these expectations is not the vital point. Rather, we act on the belief that the expectations we bring to any situation are reasonably accurate but, more important, are certainly appropriate. Our expectations are based in part on our experiences in identical or similar situations, what others have told us, additional information we have prior to the meeting, and our general familiarity with how things are done in our culture. Cultural differences may impede smooth interaction. We know that campus subcultures have different norms for conflict management. Most of us have the ability to adjust our faulty expectations as new information is added. In fact, seeking new information about and guidance for confusing or misunderstood social settings is a major priority (Arnold & Feldman 1986).

By the way, the visiting professor who joined me after lunch was unfairly labeled. In this setting, he turned out to be somewhat embarrassed, confused about the complaint, and willing to resolve the issue without a challenge. My inappropriate expectations probably impeded the resolution process in the early stages of our interaction. I have found that most visitors have no experience with an ombuds and their expectations of what will happen when they get to an ombuds office are off target. Visitors have expressed a wide range of expectations including:

- Tape recordings will be made.
- I will not investigate their complaints but accept everything as stated.

- I will make a decision and alter an existing policy.
- I work for their union.
- I will file a report with their supervisor.
- I am the university's legal counsel.
- I can issue a refund.
- Meeting with the ombuds eliminates any other complaint and resolution options.

Knowing that a visitor is likely to have less than accurate expectations, I begin each session with appropriate greetings and "thanks for using the office" and then carefully go over the ground rules. Each visitor is given a copy of the statement describing the UMass Ombuds Office, as well as the TOA Code of Ethics and Operating Principles. We review the university statement together, and I briefly describe the Code of Ethics. If the visitor is comfortable with the guidelines, we continue.

Typically visitors agree to continue and say they have understood what we can and cannot do. I ask if there are questions. Expectations have been clarified, and the norms guiding the upcoming interaction are being suggested.

Interaction in the ombuds' office is, in some ways, different from interaction in other institutional settings. What happens when the norms that guide most of our behavior are recognized as misleading or inappropriate for a new situation? For example, many visitors arrive frustrated or angry because they have had their requests rejected in other offices and feel that this was unfair. If the ombuds signals that he or she acknowledges those feelings, the tone of the meeting immediately changes. The visitor may realize that the anticipated argumentative style is not appropriate, and a change is needed. When working with two or more visitors in conflict, I may try to establish the norm that "It's your problem; you need to take the lead in solving it." This is consistent with transformative mediation, which places responsibility for the resolution process on the disputants (Bush and Folger 1994), and contradicts the norm that typically is attributed to the process used by authority figures who solve problems by saying, "You tell me what the problem is, and I will tell you what to do."

It is not always easy for participants to recognize that ordinary ways of doing business may be inappropriate and may hinder progress. We can gain some insight about the importance and process of emerging norms from the study of collective behavior. Sociologists suggest that collective behavior refers to behavior in groups which is relatively unorganized, characterized by spontaneity, and usually not guided by everyday norms of behavior (Turner and Killian 1972). The field includes the study of behavior in crowds, riots, panics, disasters, and other loosely regulated group behavior. How do we make the leap from a panic in a dormitory fire or a brawl at a hockey game to life in the ombuds' office?

The emergent norm theory helps explain how collective behavior develops, the specific form the behavior takes, and how it changes (Neal 1988). The theory suggests that people act the way they do in a crowd, a panic situation, or a natural or man-made disaster because they perceive those actions to be the most appropriate ways to act under those conditions. In the case of a theater fire, the norm of staying in line and waiting one's turn is rejected and a new norm of get-out-fast or run-for-the-front-exits is mentally tested and, if deemed appropriate, adopted. A new norm guiding behavior under those conditions emerges, is perceived as beneficial, and guides subsequent behavior. In the case of a hockey brawl, the usual norms governing speech, cheering, and the range of allowable boisterous behavior are supplanted by emerging norms that support limited violence and probably identify acceptable targets. Without the same level of heightened emotion, we may see similar transformations in the ombuds' office. New ways of approaching interaction or solving problems may come to mind or be suggested by the ombuds. The assumption that we seek to clarify and adapt to expectations implies that we usually are rational and goal directed. If we recognize that old norms and standards are inhibiting our goal attainment, then we are more likely to seek, develop,

and/or adopt emerging norms. In simpler terms, traditional ways of solving problems may have to be put on the shelf and a new standard or norm adopted. If participants perceive the emerging norms as beneficial to their goals, then they will likely guide subsequent behavior.

Shared Definitions

Successful interaction is more likely when the parties have a set of shared definitions of common terms. At times, parties may think they share those definitions--but in reality do not. For example, do my visitors mean the same thing as I do when we use the term *confidential*? I have learned that this is not always the case. I have had visitors tell me that *confidentiality* meant:

- I may tell no one, but they may tell anyone they choose.
- I may tell anyone I choose, but they may tell no one.
- Neither of us may talk to any other person.
- I may tell only the provost.
- I may talk only to people that knew the accused.
- Confidentiality does not extend to the accused.
- I may share information with the visitor's union.

It is important to reach a shared understanding about all relevant terms that could lead to misinterpretation. In addition to confidentiality, I have found it helpful to focus on equity and neutrality. Many assume that *equity* means *equal,* and we often discuss the concepts of fairness and justice. I acknowledge that, while these concepts may be subjective, we will attempt to reach a position mutually agreeable to all parties. As all ombuds know, neutrality is essential to our trade and difficult for some visitors to grasp. They need to understand that, if I am asked to share an opinion, it might not be favorable to the person bringing the complaint. I remind visitors that an ombuds is not an advocate. Many also need to be reassured that, as a neutral observer, I am not obligated to take the side of the university when there is disagreement over policy or procedure. I believe that this is viewed by many with skepticism. I also remind visitors that I cannot change policy or overturn previous decisions. At times, I share several hypothetical examples of how neutrality guides our process.

Social Power

Social power refers to the ability to influence another's behavior or beliefs. Our visitors come to us believing they have certain power resources but perhaps lack others. Certainly they don't feel confident to resolve the particular problem that brought them to my office. They may be under the impression that they either lack the power to change the outcome or that the other party or institution has greater power. In most cases, their attempts to solve their problems have been unsuccessful. Visitors also have perceptions about the power we, as ombuds, have to alter an unfavorable situation. These perceptions range from "You probably can't do anything, but I needed to tell someone anyway" to "Can you take care of this by this afternoon?"

There are numerous ways to assess or analyze social power. Guerra and Elliot (2001) discuss implicit and explicit power and how it impacts on ombuds' decision-making strategies. They see

> . . . the techniques of the ombudsperson as utilizing primarily one of two different types of power. "Explicit power" is characterized by an overt display of power that meets the desired end of the ombudsing intervention, but entails the danger that the respondent will feel subjugated or overthrown by having the ombudsperson take a stand against their previous actions or decisions. . . . "Implicit power"

> is characterized by subtlety. Implicit power allows the respondent to weigh the judgment while allowing her or him to make a decision on his or her own.

The use of implicit power is more consistent with transformative mediation in that the ombuds is not a decision maker but more of a facilitator. Guerra and Elliot make an important distinction for an ombuds.

Let's consider an alternative scheme that might provide some additional understanding of the dynamics of social power. French and Raven (1959) and Raven (1965) have suggested that there are multiple power bases or resources that are used to influence others. They also contend that one basis of power, informational power, is separate from the source. That is, the content of the message, not the messenger, influences the recipient, for example, when our university memo regarding the ombuds' office convinces someone to alter his behavior prior to contact with the ombuds' office.

For now, let's focus on the five remaining bases of power that relate to the source. Each of these reflects an actual or perceived power resource that is available to influence behavior or beliefs. We are able to draw upon one, several, or all of these resources at various times. First, I will describe the various power resources and then illustrate how they might be applied by an ombuds. I also will comment upon the relative power of the disputants who come to our offices and how they attempt to influence each other.

Legitimate power. Legitimate power is based upon a person's position within a system. The person making the request or demand is seen as having the right to do so. The power rests in the laws, rules, policies, and practices associated with the position. This is similar to political scientists' term *legitimate authority*. The range of legitimacy is determined by the perceptions of those being influenced. As long as I believe that the request is legitimate, even if it isn't, I am likely to comply. Those students who perceive a professor's changing the final exam date as a legitimate use of her power will comply without formal complaint. Those who recognize that the action falls outside the legitimate range are more likely to take some action and perhaps end up in an ombuds' office.

This form of power also suggests that someone is less likely to conform to a legitimate request if he or she incorrectly believes it is not a legitimate request. If I politely ask a student to provide the references to her term paper, she might unwisely reply, "You don't have the right to do that" and not comply with my legitimate request.

Expert power. At times, others comply with our requests or demands because we are seen as having greater knowledge or ability. Once again, the range of perceived expertise is critical. While I might be able to influence the views of students about changing crime patterns in America, it is unlikely that I could alter anyone's view or behavior related to long-term investing. It would quickly be obvious that I am outside my range of expertise.

Reward power/coercive power. A person who has the ability to reward another is utilizing an additional base of power. Even the grumpiest professors can gain some compliance from students because of their ability to award good grades, letters of reference, recommendations for assistantships, and so on. Generally, those who have reward power also have coercive power, namely, the ability to provide punishment or negative outcomes—bad grades, no recommendation, etc. Of course, this power resource is effective only when the potential rewards and/or punishments actually are relevant to the person being influenced.

Referent power. In addition to the power resources already discussed, someone might also have referent power, which is based on the relationship or desired relationship between the parties. Emotional or personal ties between people may facilitate the influence process. When I approach a friend in the department and say, "I hate

to ask you, but could you cover my class today?" I am using referent power. If there is no implied reward or punishment, I am using our friendship or personal history to gain agreement.

As I mentioned earlier, we might use one or any combination of power resources to influence others. Since different people respond more readily to one type of power than another, having an array of power resources is an advantage. Those at a power disadvantage--such as students, untenured faculty, support staff, and perhaps under-represented groups--may be the ones most likely to seek or need assistance from those perceived to have power.

How does the ombuds role fit into this scheme?

Power and the Ombuds

Initially, let's look at the potential power bases available to an ombuds and then examine the perception of the potential powers. I believe the ombuds is fortunate in having all of the power bases to draw upon. In the university statement cited earlier, it was clear that the ombuds was "appointed by the Chancellor" and clearly has legitimate power. The range of that power also is spelled out in that document: will listen, investigate, etc. but will not intervene in formal grievances, overturn decisions, and so on. Visitors need to understand what the ombuds can and cannot attempt to do.

On some campuses, the role of the office also is defined in catalogs, contracts, handbooks, Websites, orientation materials, and more. At times, even with these written policies, our right to deal with a problem may be questioned. I have on a very few occasions been told, "No, I'm not going to speak with you about that complaint" or "If he has a problem, let him talk to the provost." That's fine. Despite our legitimate right to assist with concerns, we cannot and do not want to mandate participation. We clearly have some expert power, and I find that most visitors recognize that: "I didn't know who else to go to"; "I was told that you might be able to figure this out"; "What do you think I should do?"

The ability to provide rewards or unpleasant outcomes (coercive power) is clear. In most cases, at least one person and often both are satisfied with the results. Our ability to influence our visitors can draw upon this perceived power. Our ability to influence others in the university in search of a resolution may be based more on the legitimate and expert power bases. When I ask for a few minutes of time or for a review of a decision process, it is my legitimate and expert power that seems to carry weight. Although some of my colleagues believe I can reward or punish them for cooperating/not cooperating, most do not see this as a salient power base.

Finally, I cannot overemphasize the importance of referent power when requesting my colleagues' assistance. Having spent many years with many of the decision makers and gatekeepers on campus, I share with them an institutional history--the good times and the tough times. We each know the problems we faced daily, and we share trust in one another. This relationship provides referent power. Each of us is aware that the other will make an effort to help when it is needed.

I suggest that referent power is a valuable resource for cutting through the bureaucratic barriers that plague most large institutions. I also know that this power cannot be abused or those channels will be lost forever. Referent power seems to be most effective among colleagues. Universities tend to discourage the development of close personal relationships between faculty and students, which puts limits on the use of referent power.

Think back for a moment about my after lunch visitor. Initially, I had some faulty expectations about the difficulty of working with this professor. These expectations were clarified as we continued our interaction. How were our various power resources utilized? What power did we attribute to each other?

I can describe my perceptions and try to interpret my visitor's perceptions based on his comments and actions. I certainly recognized his legitimate rights backed up by our faculty con-

tract. I knew what resources he could draw upon when accusations of inappropriate behavior were made. I also recall thinking that he was bright and probably an expert in his field, but I did not assume that he would demonstrate expertise in our negotiation process. That is, I probably was not responding to his expert power resources in this setting. Had he been a management- or human- relations specialist, I might have responded differently. The fact that we were unacquainted minimized his referent power.

I have made an effort not to be easily swayed by a visitor's ability to provide me with rewards. I feel relatively secure in my position, and I am not using it as a stepping stone to something more desirable. I hope this stance minimizes the chance of my visitors' influencing me with their potential reward power.

This leaves us with coercive power. Looking back now, I believe I was most concerned, prior to the visit, about his ability to make the rest of my day miserable. I probably started our meeting somewhat defensively, keeping an eye out for those cues to his coercive power base. There were several references like "I know what my rights are" and "I've spoken with some lawyer friends."

However, as our meeting progressed, my concerns about being coerced diminished rapidly. He was somewhat surprised that a student described him as "harsh toward students." He, in fact, felt that he was devoted to his teaching, and students confided in me that several of his colleagues were not treating him with respect. I started to view the situation as one in which many people might benefit from resolution of the conflict--students, my visitor, and his department. I thought about this challenge as one that would be quite an accomplishment. In some ways, this became his source of reward power. I also started to respond more personally (allowing referent power to develop), i.e., to think of his own difficult situation that perhaps was rubbing off on his interactions with students.

It appears that my visitor attributed several kinds of power to me or my office. He approached me for advice, so I can assume that he perceived some ability to make things better (reward power). He also stated early on that I could talk to the provost (legitimate and coercive power). There appeared to be some question about my expert power. How long had I been a professor? Do you know what it's like when your colleagues harass you?

Again, I wouldn't suggest that I had any referent power in his view. Our discussion focused on various ways to reduce the conflict with his colleagues, which was not his stated reason for meeting with me. Eventually, we agreed that I would meet informally with his colleagues, if they consented, to hear their side of the story and to attempt to arrange an informal meeting among all of the parties. I was to act as a facilitator at the meeting.

The question of the student complaint became less salient to him, as he apparently began to view it as springing from the alleged hostility of his colleagues. Our success in reaching a plan may have been most influenced by his attribution of my reward and legitimate power. The legitimacy of the ombuds' office was to be used to arrange a meeting with reluctant colleagues, and this subsequent meeting would perhaps improve the quality of his professional life.

The meeting with his colleagues did result in an agreement to treat their professional differences in a more civil manner. That small success apparently increased my referent and expert power.

A few months later, I was asked by the professor to help with a minor unrelated problem because "You understood how important it [the old problem] was to me."

Overview

Since most people generally prefer a social situation that is predictable, the ombuds should take steps to provide a framework for the resolution process that lets participants anticipate the direction they might be taking. The ombuds should be sure that all visitors are using the same definitions for important matters such as confi-

dentiality, anonymity, and neutrality. The ombuds also needs to be sensitive to the expectations that each participant brings to the setting and should attempt to insure that the expectations are reasonable for the particular situation. Finally, each of us has a variety of available power resources that can be called upon to influence others, and we should also note that the level of effectiveness of the varied power resources varies from one recipient to another. The ombuds should take full advantage of the most appropriate power resource(s) that facilitates the participants' and ombuds' resolution of the conflicts.

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The Medium and the Message: Confidentiality and E-mail Discussion Lists

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Introduction

The practice of ombudsing[1] requires that certain communications by and to the ombuds be "private," in the sense that they are made available or revealed to others only under clearly defined circumstances. The reasoning for this is that disclosure of certain information might involve harm, either to the individuals involved or to the office itself, and the effectiveness of the ombuds' office is predicated upon the belief that confidentiality will be maintained. In fact, confidentiality is seen as the primary obligation of a professional ombuds, as defined by The Ombudsman Association's *Code of Ethics:*

> The ombudsman, as a designated neutral, has the responsibility of maintaining strict confidentiality concerning matters that are brought to his/her attention unless given permission to do otherwise. . . . The ombudsman must take all reasonable steps to protect any records and files pertaining to confidential discus-

[1] This paper focuses upon the practice of ombudsing as it relates to "internal ombudsman" as described by Mary Rowe in *The Ombudsman's Role in a Dispute Resolution System* (1991), and does not necessarily pertain to other types of ombuds, who have different obligations regarding the confidentiality of communications.

sions from inspection by all other persons, including management [<www.ombuds-toa.org/downloads/TOA%20code-sop.pdf>].

This precept is then incorporated in The Ombudsman Association's *Standards of Practice*[2], which, as its first standard, invokes practitioners to follow the Code of Ethics and, as its second, that all ombuds base their practice on confidentiality (<www.ombuds-toa.org/downloads/TOA%20code-sop.pdf>).

Obviously, not all communications by or to ombuds are privileged or confidential, any more than all communications by or to lawyers or doctors or priests are confidential. As stated above in the Code of Ethics, the confidentiality restriction is meant to apply to information brought to the ombuds by a visitor and the protection of that information from outside sources. In fact, there is much information that exists outside of the bounds of confidentiality restrictions. Ombuds often disclose information about the inner workings of the office--its procedures for dealing with investigations, its relations with other administrative branches of the institution, whether university or corporation or government, its bases of funding or its scope of office--which is neither confidential information nor is the manner in which the communication transmitted a violation of confidentiality.

In fact, these non-confidential communications are extremely important to the profession. Informal dispute resolution is only one aspect of what ombuds do; they may also serve as change agents for the organization. Therefore, it may be necessary for ombuds to share with their institutions not only aggregate information, such as statistics, but also a general description of types of concerns with which the office has dealt and perhaps the "operating style" of the practitioners themselves (Rowe *et al.* 1993).

Distinguishing between these two types of communications is not always either obvious or easy, and, as a result, claims of confidentiality are sometimes applied to communications inappropriately. Because practitioners worry about the **possibility** of a violation of confidentiality, often they choose **not** to reveal information, which may, in fact, be a hindrance to performing the ombuds' role effectively. Ombuds are often reluctant to discuss many matters--even those that do not fall under the precept of confidentiality.

This situation has been compounded with the emergence of electronic communications systems. While the use of communication tools such as e-mail and discussion lists has increased, involving more and more users, stylistic and usage rules are still not codified, and what guidelines have been established remain context-specific and generally have not been disseminated adequately--only enhancing confusion surrounding the disclosure of information.

One response by users has been to include confidentiality and privacy warnings within their messages; however, one of the more damaging responses, especially for ombuds, has been the silencing of a great deal of useful discussion. As many individuals have been left with uncertainty regarding the norms and expectations of their usage, many have decided to limit the disclosure of all types of information. Unfortunately, this has resulted in strengthening a perception, already existent in some quarters, that the ombuds profession operates in secrecy and is neither accessible nor accountable to others.

This paper examines the discussion list as an electronic format of communication and the concerns by ombuds regarding issues of confidentiality that surround it. It is my intention to uncover that tension between the medium and the message; to examine discussion lists as electronic sources for transmitting information; and also to examine the meaning of confidentiality

[2] For a discussion of confidentiality in governmental settings, see Krent, Harold J., (2000). Federal agency ombuds: The costs, benefits, and countenance of confidentiality, *Administrative Law Review* 52 (1) 17-61.

as it applies to this mode of communication. This paper explores what discussion lists are and how they are used, as well as looking at these lists within the framework of the field of research, now defined as (text-based) computer-mediated communication.[3] My goal is to uncover the sources of confusion and more importantly, to highlight the very real strengths these lists offer to ombuds as a communicative method.

What Type of Communication?

Much of the ombuds literature defining confidentiality of communications has centered upon an understanding of the term within the context of internal communications in the dispute resolution process--that is, communications occurring within the organization between members of the institution, such as between the ombuds' office and its clients or the administration. Other literature focuses upon confidentiality as it relates to external communications or to either potential or actual legal proceedings (see *Ombuds: The Journal of the College & University Ombuds Association*: 2, Spring 1996, *Occasional Papers on Confidentiality and Record Keeping.*)

But what about communications by ombuds outside the institution and those which do not relate to legal proceedings? How do we treat communications between and among ombuds themselves? Ombuds take many opportunities to communicate with one another, for many reasons, both personal and professional. Certainly, many practitioners at one time or another have consulted with an "outside" peer ombuds to gain a clearer understanding of a situation with which they are dealing. The clarity of distance and an understanding of the ombuds' function can be a welcome relief in a difficult situation.

As well, ombuds gather to talk about the profession in general--its values, issues, and methodologies. These discussions are vital to the profession, and ombuds recognize their importance for the improvement of the quality of the profession (The Ombudsman Association *Standards of Practice: 9*). All professions need to engage in reflection, analysis, and education, both as a way to increase their members' participation in the profession and to remain responsive to an ever-changing world. Indeed, professional associations and societies exist in part for such purposes. Traditionally, they have provided opportunities, through conferences and meetings, for members to participate in training programs, expand their knowledge and skills, and to engage in both formal and informal discussions regarding the challenges and opportunities within the profession. Here, members convene to network and have access to other professionals.

For the ombuds profession, these gatherings have particular importance. Perhaps more than most professions, ombuds rely on one another in doing their jobs and understanding their profession. Often the ombuds is isolated institutionally. Confidentiality restrictions can prevent ombuds from seeking advice on specific cases or from disclosing certain information to anyone outside the confines of the ombuds' office within the institution, and ombuds are advised to be wary of serving in other capacities in their organizations that might undermine or compromise the appearance of their neutrality (TOA *Standards of Practice*: 5:5). As a result, ombuds often feel cut off from their institutions, relying instead upon one another as a source for support and advice.

Other than perhaps individual phone consultations, these conferences and meetings have been the primary place where members can come together to discuss the challenges, responsibili-

[3] "Computer-mediated Communication (CMC) is the process by which people create, exchange, and perceive information using networked telecommunications systems . . . that facilitate encoding, transmitting, and decoding messages. Studies of CMC can view this process from a variety of interdisciplinary theoretical perspectives . . . include[ing] the social . . . linguistic, cultural, technical, or political aspects; and draw on fields such as human communication, rhetoric and composition, media studies, human-computer interaction . . . (<http://december.com/john/study/cmc/what.html>).

ties, and obligations of the ombuds profession. These discussions serve, then, to guide practitioners at their own locales, in their daily practice. They offer participants a chance to reflect upon their roles in their own institutions in relation to the profession as a whole and to gain insight into a variety of theoretical matters that inform their practices. Unfortunately, the ability to participate in these conferences depends upon the ability to attend, and the ability to attend many times depends upon budgetary factors. Many practitioners who might greatly benefit by these conferences are unable to attend because their operating budgets do not allow for travel.

However, it is no longer the case that budgetary or other restrictions on personal attendance at such gatherings keep many ombuds from access to many of their benefits. Electronic communication, in the form of e-mail discussion lists, has completely changed this situation. No longer do individuals have to pay large sums of money for travel, hotel rooms, and food to reap the benefits of discussion with other ombuds. "Conferences" can now be held in cyberspace, in a virtual community, where subscribed members can meet, regardless of hour, regardless of place. Lists in general are increasingly used as a means of group communication,[4] and in the ombuds profession, nine such lists testify to this fact (<http://www.ombuds-toa.org/toa_ombudslist servs.html>).[5] Working often in an isolated environment within their home institutions, ombuds have welcomed the ability to connect with peers around the world. The benefits of these lists are enormous: information of relevance is easily disseminated, significant numbers of people can participate, and individuals can feel connected to others with similar interests and problems. However, the specter of violations of privacy and protected communications creates tension and conflict for many participants. Ombuds have found an easy way to communicate with peers and professionals through the use of discussion lists but worry about the implications of this format to claims of confidentiality of communications.

Discussion Lists

Discussion lists, often generically referred to as listservs (Hale, Wired Style: 1996:152)[6], are mailing systems that allow people with similar interests to communicate with each other by sending mail to a particular address, which is then distributed, through "mail exploding" software, to all of those individuals subscribed to the list (<http://www.unl.edu/helpdesk/bigred/add_email.html# listserv>). These lists allow for asynchronous conferencing, meaning that there is no real time requirement for the discussion; individuals may access and respond to postings within their own timeframe. These lists are composed of individuals, who become part of a larger group that is shaped by interest rather than geography (Launspach 2000). A virtual space is then created for members of this community, and, in principle at least, these members form a shared community, often referred to as a discourse[7] community. As indicated previously, ombuds currently

[4] As of 1996, 11,000 such lists had been formed (Harrison 69).

[5] These include the *American Bar Association Ombudsman Committee* general list (ABAOMB), *Association of Canadian College and UniversityOmbudspersons* (ACCUO), *Coalition of Federal Ombudsmen* (FEDOMBUD), *International Ombudsman Institute, North American Region* (IOI), *Medical School Ombuds* (MEDSCHOMBUDS), *United States Ombudsman Association* (USOA), *OMBUD, The Ombudsman Association* (TOA), *University and College Ombuds Association* (UCOA).

[6] LISTSERV is actually a commercial product marketed by L-Soft International. LISTSERV refers to a specific mailing list server. Another popular mailing list server is Majordomo, a freeware software program.

[7] The term *discourse* refers to "...language that reflects the social, epistemological, and rhetorical practices of a group" (Jolliffe 2001), and therefore, a discourse community is a specific group of people who share that discourse.

have nine such lists, which cater to all types of ombuds, in all organizational settings.

The Source(s) of the Confusion

Perhaps the most obvious and generally recognized problem with these lists is imbedded in the very nature of the communication format itself, e-mail. In the transference from a predominantly hard-copy communication system to an electronic one--which relies upon different transmittal, retrieval, and storage systems--the ombuds' ability to control and maintain privacy and confidentiality in communications has been significantly altered. It is almost generally acknowledged that it is impossible to consider any document private. Electronic communications are always at risk of being accessed, and, whether or not it is likely that they will be so, we must now always think of them as at least subject to unauthorized or unanticipated access.

Interestingly, at the same time that the communication cannot be considered private, the mode of communicating encourages a sense that it is such. That is, the basis for this lack of privacy rests upon the mode of transmittal of the communication, not what has been written, and e-mail embraces a writing style that is hybrid: a cross between speech and writing that fosters the belief that the communication is both personal and private. Researchers have noted that since its emergence, e-mail has been characterized by informality of expression, which has often been allied to a personal, private style of correspondence (McCormick and McCormick 1992).

Combined with the idea that list members believe that they belong to a shared, **intended** community, users often feel that what they post to lists are "conversations" of a communal nature. Users of discussion lists often feel that this discourse community shares more than professional or topical interest--that the users assume shared understandings and values, as well.

Also, users assume that discussion lists are a particular genre,[8] which follow similar expectations in both linguistic practices and formatting. Because discussion lists are relatively new, they are not necessarily well understood by the (ever-growing) public which uses them. Since all discussion lists operate under the same technological principles, those who use them tend to assume a consistency of form and function.

Research indicates that this is not the case. In an analysis of the textual feature of the modes of quoting on two separate discussion lists, Gruber (2000) showed that there are clear differences between the two. One list uses direct quoting as a form of reference almost exclusively, while the other list uses indirect quoting, which, he argued, indicates theoretical differences in the communication goals of the lists themselves. The list using indirect quotations poses problems for readers who have not followed the discussion from the beginning and, therefore, indicates an in-group perspective, which assumes that members regularly and consciously follow any and all discussions. The use of direct quotation allows a reader to have a direct reference to a particular idea, which then does not require that reader to have followed the discussion from its inception, allowing for a more sporadic, less involved member to participate.

Gruber's analysis focuses upon the use of linguistic patterns, showing that no consistent format for quoting is followed between lists, and, therefore, it cannot be assumed that lists in general have standardized rules regarding stylistic structuring, indicating that discussion lists are not a genre. He concluded that these different quotation practices arise out of differences in users' un-

[8] In rhetorical theory, a *genre* refers to any structured communication created by shared expectations about the form and content of the communication, thus making the production and the interpretation of the communication clear (December). The most obvious example would be a resume, which follows a general pattern that fulfills the goals of both the writer and the reader.

derstandings of the goals of the list, indicating the relationship between form and function. The stylistic elements emerge out of perceived functions of the lists, and these functions arise from and are determined by the list owner/manager and the users who want to, or are able to, subscribe. Lists differ significantly in their requirements for subscription. This is certainly true of ombuds' lists, as will be shown below.

Ombuds Discussion Lists[9]

[The following list includes only the name of the list and the requirements for eligibility.]

1. American Bar Association Ombudsman Committee general list (ABAOMB)
 Eligible to subscribe: Anyone

2. Association of Canadian College and University Ombudspersons (ACCUO)
 Eligible to subscribe: Paid-up members of ACCUO

3. Coalition of Federal Ombudsmen
 Eligible to subscribe: Anyone may; however, only those interested in federal agency ombuds should.

4. International Ombudsman Institute, North American Region (IOI)
 Eligible to subscribe: Paid-up members of the North American region of the International Ombudsman Institute. Each subscription must be approved by a list co-manager before becoming active.

5. Medical school ombuds (MEDSCHOMBUDS)
 Eligible to subscribe: Any practicing ombuds serving medical school faculty, staff, or students.

6. United States Ombudsman Association (USOA)
 Eligible to subscribe: Anyone who provides governmental ombudsman or complaint-resolution services at the local, state, federal, or international levels, voting and associate members of USOA, COA, or IOI, academics studying governmental ombudsmen, and others interested in supporting ombuds' role.

7. OMBUD
 Eligible to subscribe: Any practicing ombuds (any sector, any country)

8. The Ombudsman Association (TOA)
 Eligible to subscribe: All members and associates of TOA

9. University and College Ombuds Association (UCOA)
 Eligible to subscribe: UCOA members (both associate and regular)

An analysis of these lists indicates the wide range of subscription requirements. These differences imply a wide variance not only of stylistic structures but also for the normative values embraced by them. The most inclusive and open discussion lists are ABAOMB, USOA, and the Coalition of Federal Ombudsmen. ABAOMB is the least restrictive of all, allowing anyone to subscribe. There are no requirements and no suggestions as to who might want to join or be interested in joining. The other two are also the least restrictive in terms of subscription standards, allowing anyone to join, although both suggest who should **want** to. USOA requires no formal association with a professional organization (hence no monetary outlay) and is not restricted to practicing ombuds but allows for all dispute-resolu-

[9] <http://www.ombuds-toa.org/toa_ombudslistserv.html>

tion practitioners. This list then radiates out to a further level, to include anyone interested in the profession, including academics. The Coalition of Federal Ombudsmen suggests that only those interested in federal-agency ombuds **should** subscribe, but no strictures are placed upon the subscription process. At the other end of the spectrum are what can be considered restricted lists, where the managers and/or owners place sharp limits upon who may participate. IOI is the most restrictive, as it requires not only membership in a particular segment of the ombuds community but also pre-approval by a co-manager of the list. The rest of the discussion lists fall somewhere within this spectrum.

We can assume, then, in light of Gruber's analysis, that there are no normative standards to be applied across the full range of ombuds' (or any) listservs. In fact, this holds true in relation to confidentiality standards, as we shall see below. In addition, however, research indicates that even within a list itself, especially in lists with more open subscription requirements, assumptions about the functions of a particular list vary, affecting both stylistic and usage patterns.

Although the act of subscription leads many members on lists to presume shared common goals and values of the members in the communicative experience, this is not the case. In fact, "[t]he assumption of a unified community is one of the notions that breaks down quickly in the data" (Launspauch 2000). In the most open of the above lists, it may be assumed that the goals and reasons for joining the list are as different as the individuals themselves; lawyers may join for reasons entirely different from ombuds; scholars may approach what is posted differently from mediators. Although they have joined the list because of an interest in the topic it covers, those individuals have a different sense of what the purpose of the list may be, hence affecting how they use it.

This fact then impacts the ways in which the list operates, in concurrence with Gruber's (2000) research. Here, the most open lists assume, and even encourage, a broader base of readers, while the closed lists do not. In fact, the most open of the ombuds' lists, ABAOMB, is archived, meaning that not only are past discussions open to all subscribers but these discussions are also open to anyone who searches the Web.[10] Here is a situation where the information posted on a **subscribed** list is intentionally accessible to an **unsubscribed** individual; anyone interested has access to your words. If you have assumed that this particular virtual community is an **intended** one, you are wrong; **unintended** readers have access to these postings. It is clear that there is no expectation of privacy of communication on the ABAOMB list, given that the postings are archived. In this case, a defined community with shared values and norms cannot possibly exist, and I argue, rarely exists in the other discussion lists.[11]

As shown above, not all lists are open--and hence, archived--in the way that ABAOMB is; the more closed lists restrict membership, and, hence, attempt by varying means to control who has access to the list and the ways in which the lists are used. While recognizing the public nature of lists themselves, these lists appeal to the ethical obligations of subscribers, for example, by containing statements that prohibit distribution and/or quotation.

The differences in subscription requirements of the nine ombuds' discussion lists highlight some important issues for ombuds. Most importantly, many ombuds belong to multiple lists

[10] This fact became apparent to me when I found a Listserv posting of mine on Google, a Web search engine. For access to the ABAOMB archives, go to <www.google.com> and type *ABAOMB Listserv* into the dialog box.

[11] The exception to this may be the most restricted ombuds discussion list, IOI, as it requires approval to participate, indicating tight control of its subscribers. Dean Gotteher, moderator of this list, indicated subscribers to this list "have to be members of the North American region of IOI or staff members of offices that are members. It is designed to be a membership only list." (private mail, Oct. 28, 2002)

but do not take into account the differences among lists when they use them. As a result, they post information/discussions on more than one list, assuming that members of those different lists have similar goals and expectations of usage. This matter becomes important in relation to assumptions of privacy and confidentiality. For example, one of the more restricted lists contains a statement that prohibits direct quotation without permission of the author. While it is certainly within the province of a list owner and manager to declare such a policy and then have, as a punishment for violation, removal from the list, often that same author has posted this same information on a list which does not contain such a directive. What, then, is the obligation of someone reading or using this information?

A review of the ombuds' discussion lists confirms what the research suggests: no single shared discourse community exists in the ombuds' profession. Each list has different subscription requirements, implying multiple views of the formatting and functioning of lists. These views then impact assumptions and requirements of posting and of using the post. List users, especially those who have confidentiality considerations, should be aware that their assumptions regarding the way lists operate may not, in fact, be accurate; hence, they may not think about how discussion lists are to be used. The method of transmittal of the communication clearly impacts the way in which we perceive the communication. The electronic environment makes it hard to differentiate between a private and public place, and, while many lists attempt to do so--either through tight subscription requirements or through the establishment of list policies--ombuds would do better to use lists in ways that most benefit their needs.

The ease and simplicity of this communicative form has made it almost impossible to resist in our daily professional lives, as most of us become painfully aware when our systems are down. Those who had confidentiality concerns were, at first, loathe to use e-mail, but the realities of its convenience could not be denied. Hence, confidentiality statements became commonplace on postings, and some lists published rules prohibiting quoting or dissemination of postings to individuals outside of the list. However, as we shall discuss, the realities of discussion lists, including both practical and organizational barriers to restricting access, have made preservation of true confidentiality of postings problematic at best, impossible at worst. Therefore, it is crucial that ombuds revisit the type of communication that falls under the rubric of confidentiality.

The fact that not all communications are, or should be, considered confidential is becoming increasingly relevant to ombuds in this electronic environment. These discussion lists offer crucial benefits to members of the profession; their value far outweighs many of their perceived problems. However, many subscribers to lists still perceive a tension between the mandate to protect confidentiality and their use of these lists. Clearly, certain communications are not appropriate for discussion lists, just as they would not be appropriate in other situations where unrestricted disclosure would jeopardize or destroy necessary confidentiality. At the same time, sometimes an obsession with confidentiality, when applied outside of a context in which it makes sense and when it is invoked inappropriately, has the effect of silencing much-needed dialogue and discussion, which is both useful to the profession and beneficial for its members. This is especially true in a profession that has few venues for open and frank discussion outside of peer practitioners.

While there are certainly communications that must remain confidential, the profession should not clothe itself in secrecy. Discussions and debates of who we are, what we do, and how we practice are not bound by confidentiality restrictions, and to place every type of conversation that occurs on lists under that rubric only silences real opportunities to enhance the profession. These discussion lists offer opportunities to extend and expand the boundaries of participation. Multiple perspectives should inform definition, analysis, and understanding of the profes-

sion. That these discussions have the potential to extend beyond the list, to be sent to a third party, to be used as references in analysis--so be it. Scrutiny legitimizes a profession.

Silencing of ongoing debate and discussion can only needlessly shroud the profession in secrecy. Discussion lists offer the opportunity for multiple voices and multiple vantage points from which to assess the profession. These non-confidential communications need to flourish, rather than be restricted.

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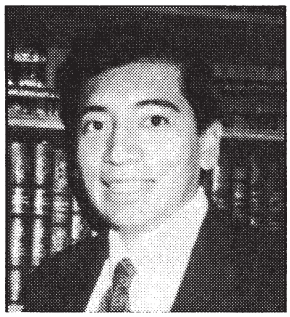
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The Power of Questions in Mediations

Mauricio Ramos



Mauricio "Reese" Ramos is an ombuds with UCLA, who strives to empower people to navigate beyond their conflict by coaching and guiding them about their options.

After graduating from Pepperdine University (B.A. in Liberal Arts) he completed a Certificate in Dispute Resolution from Pepperdine School of Law's Institute for Dispute Resolution and then earned his J.D. from McGeorge School of Law.

In the past, he has mediated cases for Mosten Mediation Centers, Marin County Mediation Services, Los Angeles Superior Court, various community mediation centers. and SquareTrade, an on-line-only mediation Internet company.

I have always firmly believed that the process of mediation can be very effective in resolving dispute. But what is it about the process that makes it so effective? Is it the fact that the parties are guided by the mediator step-by-step through the stages of mediation? Is it that the parties want to avoid staying in conflict? Is it their desire to compromise? Or, are there other factors at play? I don't know, and there may not be one right answer to the question of why mediation is effective. In all likelihood, a multitude of factors influence mediation sessions.

I do think, though, that a critical component of creating productive mediation sessions is what I call the power of questions. Well-conceived and well-stated questions are what keep the process going. They are the grease between the wheels. When all seems lost, stuck, or simply headed in the wrong direction, the one perfect question could change things around--instantly.

This article first addresses why questions are such a powerful tool in mediations. It then explores the types of questions that are commonly used and how they can be valuable throughout the various stages of mediation. Gaining a better awareness of the power of questions will lead to more effective questions, which will, in turn, lead to more effective mediations.

How Questions Can Be Powerful

This article is premised upon the belief that questions may be innately powerful. Certainly, not all questions are powerful; in fact, asking the wrong type of question can cause a sense of defeat. Ask the right type of question, however, and the answer may shift your perception, experience, and insight into a situation.

Let me explain the difference between an ineffective question and an empowering one by way of example:

Have you ever been in a car accident? Do you remember asking questions of yourself or of the other persons involved? What were those questions? Did you think to yourself any of the following? "Is my insurance going to cover this bill?" "How could this person be so careless?" "How could I be so careless?" "Why does this always happen to me?" "Why are people so stupid?"

The exact questions you asked may have varied slightly, but most people ask questions along a similar line. Do you notice what these types of questions have in common? They all require a self-defeating answer, such as: "Your insurance is never going to pay this bill" or "Some people are just born stupid" or "You are just unlucky or cursed." These are ineffective questions because they do not provide you with any new insight or give you the feeling that you can do anything about the situation.

Would the experience be different if you asked different questions? You bet. What if, instead of the negative questions above, you asked: "What steps can I take today to ensure that this is financially taken care of?" "What I can learn from this situation to prevent it from happening in the future?" "What is good about this situation?" "What can I learn from this other person?"

If you asked these types of questions, your answers might be the following: "I need to make sure I am adequately insured in the future"; "I need to take a defensive driving class"; "I am glad that my car, and not I, was damaged"; "I am glad I am not like this person. I can use this person's behavior as an example of how I should not ever act."

Don't these questions create an experience different from that instigated by the previous set of questions? The answer is yes. Questions like these are premised on the belief that every situation can become a learning experience. These questions require positive answers. They empower the person asking the question to take action so as to turn a negative situation into a positive result. So how can we apply this, the power of questions, to mediations?

Here's a case study that I will refer to throughout the article to illustrate the power of questions:

For the past decade, Stacey and Kim have been co-workers at a university and have always been good friends. Last month, Kim was promoted and became Stacey's supervisor. Since Kim's promotion, the two have had frequent conflicts. Kim feels that Stacey has been inefficient and uncooperative. Recently, Stacey went on a two-week vacation, scheduled to return to work Monday morning. Due to a late plane arrival, Stacey did not arrive home until 3:00 a.m. on Monday. When her alarm went off at 7:00, she felt sick and exhausted and did not feel she could go to work.

Immediately, she called work, as all employees in the department are expected to do. She tried explaining her absence to Kim. Kim responded by saying, "You should have planned to return earlier so that you would be able to return to work as scheduled. There is work that you were expected to complete today." When Stacey came back to work on Tuesday morning, Kim entered her office, closed the door, and told Stacey that Stacey needed to consider retiring because of the trouble she was having in performing her duties and meeting planned work responsibilities. After the meeting, Kim also provided Stacey information about the social security benefits and pension income that she could expect once she retired. Feeling pressured to retire lest she be terminated, Stacey has contacted the ombuds office and related her story to the ombuds.

She stated, "I know you are neutral and can't take sides, but if you were in my place, what would you do? Should I file a grievance against Kim?" What would be the ombuds' response to Stacey's question? Would it be similar to the following? "Stacey, it is not my role as a mediator to tell you what to do. You really have to decide for yourself what is in your best interest." This is certainly a fine response. The ombuds has explained to Stacey that he cannot make a choice for her--that she has to claim that authority. But does this

response bring Stacey any closer to actually deciding what to do?

Is there a better way to assist Stacey in making her decision? Maybe this: "It's really difficult for me to assess what would be in your best interest. You and I probably have different values and motivations. But I recognize and understand that you are seeking input, and, although I can't tell you what to do, these are the kinds of questions I'd be asking myself: 'What is it I want out of this situation? How would I like it resolved? If I do file a grievance, what do I have to do? Is a grievance going to get me what I want?' Can you think of any other questions you could ask yourself?"

In this example, the ombuds has tossed the power of decision back to Stacey by throwing out questions that will elicit positive responses. It is within those responses that she will find her answer. By encouraging Stacey to ask herself effective questions, the ombuds may help her claim responsibility for her role in the process.

When Stacey answers the questions, she may realize that, since she does not plan on retiring for a couple of years, she would like to do whatever is possible to clarify her relationship with Kim in an informal and private manner. She may decide to authorize the ombuds to contact Kim, who can state that she looks forward to mediation with Stacey.

This example illustrates the power of questions which induce parties to think, analyze, evaluate, explore, and ponder for themselves. Once they can do that, people can act on what they deem is the best course of action.

Now, let's explore the various types of questions that play a role in the mediation process. For purposes of this paper, I am going to simplify the mediation process into stages or phases. I often use the acronym *IDEA*, inspired by a seminar on creativity I once attended, to describe each stage. *I* stands for the identification of problems or interests; *D* for the discussion of those subjects; *E* for the exploration of options that may result in resolution; and *A* for the final step of taking action and executing the options or agreement chosen by the parties.

Understanding the Reality of the Parties: Clarifying and Open & Closed Questions

The types of questions we ask often determine whether we, as mediators, are able to understand the problems, positions, and underlying interests that clients bring before us. Without insight into the needs, desires, and motivations behind a dispute, the mediator faces extreme difficulty in helping the parties formulate options for resolution. Thus, in the initial stage of a mediation, one of the objectives for the mediator is to try to see the problem through the eyes of each of the parties. The three types of questions that are helpful in this stage are: **clarifying, open-ended,** and **closed-ended questions.**

Clarifying questions help us move to the same level of understanding, ensuring that the mediator understands and does not make assumptions about the facts of the case. Such questions should be paraphrases or reiterations of what the person said but should be framed interrogatively. For example, let's say Stacey and Kim have agreed to come together for mediation. In relating her story, Stacey stresses numerous times that, before her promotion, she and Kim had been "good friends." What clarifying questions may be appropriate to avoid ambiguity or a mistaken assumption? As facilitator, the ombuds might be wondering if the term *good friends* means that they interacted socially outside the employment arena. Did they often share personal information with each other? Is their previous friendship a source of conflict now? The mediator might ask Stacey the following clarifying questions: "Stacey, I think I heard you say that you and Kim had been 'good friends.' Did I hear you correctly? Can you tell me more about what it was about that relationship that made you feel that you were good friends?"

Such clarifying questions might lead to the discovery that Stacey considered Kim to be such

a good friend that she often trusted Kim with intimate personal details and would often socialize during the weekdays and weekends with her. This information may support the ombuds' inference about one reason for the present strain in their working relationship.

Another way to gain an understanding of reasons for the problem is to ask open-ended questions, which elicit narrative responses--renditions of facts from their own points of view, without much interference or guidance from the mediator. They are similar to clarifying questions in that they can unearth information but differ in that clarifying questions tend to focus on specific information about parts of the parties' stories. The answer to a clarifying question often sheds light on a specific event, while an open-ended question often draws out a broader narrative that may suggest or lead to more questions.

For example, let's say Kim is now explaining her side of the story. She has acknowledged that their working and personal relationships are different now but that she is mainly troubled by Stacey's lack of effectiveness. A possible open-ended question may be, "Can you tell me what has happened that has led you to that conclusion?" Such a question may allow her to state, in her own words, her perception and experience of the situation. It is in these moments--when the parties have free reign and little guidance--that the mediator can sit back and actively listen to the story for those key words, concepts, events, and feelings that shed light on what the person is trying to convey.

Alternatively, a mediator can use closed-ended questions to gain understanding--questions that require precise and specific answers. For example, the question, "Kim, I think I heard you say that Stacey called in sick Monday morning. Right?" This question has an effect different from the open-ended question: short responses, needed when the client rambles or needs to shift gears to a new topic.

A suitable balance of open, closed, and clarifying questions can produce a clear illumination for the mediator of the conflicts and interests. Once they are understood, the mediator can proceed to the next stage, wherein the parties should try to better understand the conflict from each other's points of view. Clarifying, open-, and closed-ended questions are useful in this stage, too, with a slightly different focus: ensuring that the answers to these questions are heard and understood not so much by the mediator as by each person involved.

Interrupting the Pattern of Conflict: Blue Sky Questions

Also, in the second stage, what I call **blue sky questions** can be appropriate. An example: In dealing with a crying child, we need use a diversionary tactic, such as giving the child something he wants, such as a toy or food. This is certainly one way to resolve the situation. But we may also divert the child's attention by pointing at something and simply asking a question. The child is crying, his screams shattering your eardrums, and suddenly you say, "Look. Over there. Is that Mickey Mouse?" The crying abates slightly as the child asks, "What? Mickey? Where?" The crying stops; someone tickles him; he laughs and forgets that he was crying.

Can this tactic work with parties at the mediation table? Discussions are getting heated. Fingers are pointing, parties are about to get up and leave, and, suddenly, the mediator says something. The parties stop speaking. "What?" The mediator asks if maybe now is a good time to break.

Conscious use of blue sky questions can be effective in bringing a heated mediation--or one that is simply going nowhere--back into control. These questions seem to be most useful in the second stage of mediation because they are so unexpected that they jar the disputants out of their current states of mind. With an interruption in their thought processes, even their physiology changes long enough for the ombuds to redirect their focus onto something else. The effect is similar to the magician's card trick: observers are so

focused on the card that they don't see what his hands are doing. Questions can have the same effect: redirecting feelings, thoughts, or comments to another place.

During the heated discussion between Kim and Stacey, the ombuds might say: "Did you just feel that rumble? Was that an earthquake?" Would such a comment make everyone stop, perk up their ears in apprehension, and cease the conflict briefly? Quite possibly. (Of course, I am assuming a question delivered in a sincere tone so that the ombuds doesn't look dumb when following up with, "I guess it was just a truck.") If the earthquake ploy seems too extreme, we can try something subtler, like asking whether everyone made sure that they put enough money in the parking meters.

There is certainly some risk to asking blue sky questions: they may backfire, making the situation worse. Disputants may squint their eyes, look at the ombuds with suspicion, and conclude that he or she is up to something. Or they may feel that the mediator is ignoring or minimizing the significance of their conflict. To reduce this risk, this kind of question should be used sparingly and in situations were there is strong rapport.

For ombuds who want to avoid unconventional behavior, blue sky questions that focus clients on another positive state instead of jarring them out of a previous state may be preferable. In the Stacey & Kim example, the ombuds might say, "Stacey, I know you are frustrated by Kim's feelings that you are not working at the level she would like. But let me ask you something else. Earlier, you talked about the days when you first started this job. Can you tell me how your getting this job felt?" The effect of such a question may be to minimize Stacey's frustrated feeling or to replace it with the recollection of a positive feeling. Though the answer to the question itself may really have no particular relevance to the matter at hand, it is the new state of mind the answer may create that is critical to the mediation process.

Shifting the Parties' Focus: Infinite Possibilities Questions

My favorite type of questions is **infinite possibilities questions**, also known as the magical "What if?" questions. Like blue sky questions, they both stop disputants from focusing on the problem and help them start thinking about solutions. Infinite possibilities questions normally apply in the third stage of the mediation process, the exploring-options phase. At this point, clients hopefully understand the conflict better and are looking to bring resolution to the matter. Infinite possibilities questions can get them there.

With Stacey and Kim, the mediator made these determinations: a) Kim thought Stacey did not respect her in her new role; b) Stacey's uncooperativeness did not help Kim in retaining the respect of her peers; c) Kim had concluded that the only option is either terminating Stacey or encouraging her to retire; d) Stacey, on the other hand, was concerned about losing her job and was willing to do whatever was necessary until she voluntarily retired in two years.

Now that Kim's concerns about respect were clear, the mediator could an infinite possibilities question: "Kim, I know you are upset and feel that there is nothing Stacey can do to make things better. But if there were, what would it be? If things could change, what sort of working relationship would you envision with Stacey?" Similarly, "Stacey, I hear you saying that you will do whatever it takes to maintain your job. What do you think are some things you could do to create that possibility?"

Infinite possibilities questions have imbedded within them a transformative quality: to get people to think creatively about how situations could be better. They encourage clients to stop focusing on what does not work and the way things used to be and, instead, on what might work and the way things could be. In this way, their attention is shifted from conflict to resolution.

Solidifying the Resolution: Necessity Questions

Let's assume, in our example, that both clients are willing to explore the possibility of maintaining a working relationship. Such a willingness is the premise for a final phase of the mediation process: the A, or action and agreement, stage, wherein disputants make specific commitments. Here, **necessity questions** can close gaps among options that may work for resolution. Necessity questions identify clearly what needs to happen in order for each client to feel satisfied, going a step further than infinite possibilities questions. Necessity questions narrow down options to what is essential for successful resolution.

For instance, the ombuds might say to Kim, "I've heard you mention repeatedly how you need Stacey to show respect to you. What must Stacey do specifically to show that respect?" Necessity questions bring out a clear declaration of what one person may require of the other or of him- or herself. This may include a specific action, due date, or promise. Suitable answers to these questions improve the likelihood of a lasting resolution.

Conclusion

People often come to an ombuds because they are stuck in conflict and unable to resolve a problem on their own. By asking powerful questions during mediation, we ombuds can: 1) unearth the details of problems and interests between the parties, 2) keep the parties on track, 3) interrupt emotional patterns that threaten to derail the mediation, and 4) help the parties put the conflict in the past and focus on solutions.

What did Stacey and Kim decide to do? I'll leave it up to the reader's imagination. What matters is that the hypothetical ombuds got them there by asking powerful questions and that, ultimately, they were able to decide for themselves how to resolve their own situation by sorting out the possibilities.

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Student Empowerment: Selected Roles and Contributions of the University Ombuds

Deborah Eerkes



After completing a Bachelor of Arts in linguistics, Deborah Eerkes joined the Student OmbudService at the University of Alberta. She has been one of five advisors there for four years. In that time she has attended over 50 appeal hearings with students, as well as hearing complaints, conducting mediations, and sitting on various university policy committees. In 2001, she designed and implemented a comprehensive, campus-wide Academic Integrity program at the University of Alberta called "Truth In Education: TIE Integrity into Learning." The first of its kind in Canada, it is now in its second year and is expanding to include a campus-wide survey and an Academic Integrity Awareness Week. Deborah is now half-time ombuds and half time Academic Integrity Program Manager.

As University Ombudsperson and Manager of the Academic Integrity Program, I engage in a diverse range of roles as I respond to students who seek services in this office. Two roles--educator and advisor--are the ones I engage in most often as I assist students to prepare for the appeals process, which they most often use to address their conflicts. In this article I present two case studies that show how I enact these roles.

Ombuds Roles, Responsibilities, and Opportunities

Some academics consider ombuds' services to be peripheral to teaching. However, as academic ombuds, we have the responsibility and opportunity to actively facilitate the educational experiences of students who use our services. In fact, ombuds have a strong educational role, one that I believe is complementary to the overall educational mission of the university. In addition to addressing specific problems, challenges, or conflicts which students experience, we encourage skill acquisition. We use principles of teaching and learning in the process of addressing problems. It is through these interactive processes with students that education and skill acquisition are accomplished.

Olswang (1998, p. 15) identifies six roles in which ombuds engage. Included among them are educator and advisory roles. Anderson (2001, p. 4) encourages ombuds to use case studies to educate one another and to promote emulation. He also identifies numerous roles in which ombuds engage in responding to requests for services. He identifies the informational function as one where the ombuds engages in an instructional or educational role. He goes on to identify con-

tinuing education as a role where the ombuds transmits information and, in the process, educates participants. There is overlap among these specific roles, and education and counseling are integral to each one.

A small segment of students who use our services expect advocacy: they prefer to lodge a complaint with the ombuds' office and surrender the problem, hoping the ombuds will do the necessary work to resolve the problem. In my office, I use advocacy to ensure a fair process and not to serve as a surrogate for the student. Other students seek services and genuinely desire to be actively involved in the problem-solving process. Students in this latter group are open to acquiring new knowledge to address the current challenges or problem. It is their attitude of openness and interest in participating in the process that will promote the educational and skill acquisition which will contribute to student empowerment.

The New Oxford American Dictionary (2001) defines *empower* thus: "to make [people] stronger or more confident in controlling their li[ves] or claiming their rights." This definition embodies the process in which the ombuds engages with the client.

I will argue that, despite its etymology--to give power--empowerment is not something that is bestowed upon someone. Rather, I believe that the word carries a broader meaning of **not taking away** a person's power. In other words, empowerment is something our students develop within themselves that allows them to assume responsibility for a situation. In doing so, they cultivate within themselves the ability to take on greater responsibility for their general well being. Put another way, if we as ombuds take on a student's problem with the intention of solving it ourselves, we are in fact **disempowering** that student.

Empowerment is a result of something; a transformation must occur within an individual in order for the self-confidence and skills to manifest. Needless to say, this is not an easy transformation. It occurs in increments: a tentative first step that leads to reinforcement that the student is indeed capable, then another step, and another, until a certain level of self-confidence is achieved. Hughes (1998) also emphasizes the self-actualization and acquisition of competence aspects of empowerment. This learning process leads to more competent action and the result is a self-perpetuating evolution into proficient practice of appropriate skills.

Case #1: Low Grade-point Average

For example, Roger (not his real name) was unsure of who to see or how to proceed through his appeal. He had been required to withdraw due to an unsatisfactory grade point average but had had several misfortunes throughout the year that were beyond his control. An emergency surgery following a serious car accident and the later death of a parent had prevented him from performing well in his courses.

I explained to him the procedures for appeal, and he agreed to meet me again with a draft letter. He returned, handing me several pieces of paper with handwritten notes scribbled on them. He told me that he had never written an appeal letter, and he just didn't know what to say. He wondered if I could give him the proper wording. This time I sat down with him to develop an outline, to give him the proper business-letter format, and to highlight key arguments for his case. The time spent enabled him to understand the content and order required for a successful appeal. When he departed, he indicated he now felt confident he could compose an effective letter. Only he knew what his life had been like during the past year, and he could most efficiently describe his experiences to his faculty.

He arrived at his next appointment, this time with a well-written letter, requesting that the faculty waive his requirement to withdraw in consideration of his circumstances. He had included all of the relevant points to convey the gravity of his situation and seemed genuinely surprised when I told him what a good letter it was.

Then came the hard part: he had to prepare an oral statement for his hearing. He was unaccustomed to public speaking under the best of conditions and, with a subject so emotionally charged, he wasn't sure he could do it.

We met several times to prepare: the first time to outline what he could expect at the hearing and the next few times to give him practice in presenting. Our final meeting was a look at the what-ifs. What would he do if his appeal were denied? I urged him to come up with a list of alternatives for his life in case he was no longer allowed to continue in university. What would he do if it were granted? He created a detailed study plan designed to ensure good grades, no matter what circumstances he might encounter.

My goal was to prepare him for any eventuality. While I have no control over the outcome of cases, I can make every effort to ensure that students have the skills required to emerge from the process as unscathed as possible. That means long discussions on the value of critical thinking, conflict resolution, and proactivity. It also means that the students must do the work, in order to really learn how to deal with the current situation and similar ones that may occur in the future. Roger demonstrated through his active participation in this educative and advisory process that he had acquired new knowledge and skills to confront the situation with confidence and optimism.

When the day of the hearing arrived, Roger was nervous about his presentation, but he confided to me that he would be fine, regardless of the result. He felt as though this learning process had been so valuable to him that he would definitely be able to accept whatever the outcome happened to be.

He did have some difficulty making it through his statement without tears, but he came across as a self-confident, motivated, young man with clear goals. The committee accepted Roger's appeal, and he was given one more year to improve his grades. I had witnessed a transformation: he came to me frightened and insecure and had emerged with a greater sense of self-confidence and personal direction. This is integral to the process of empowerment.

As Manager of the Academic Integrity Program, I regularly work with students in addressing cases of alleged academic misconduct. These cases occupy a significant portion of my work, and it is an important and necessary role in light of the occurrence of this problem. While I deal with a number of plagiarism cases, the following scenario, although real, is not common. The students I see react with responses ranging from admitting full culpability to denying all allegations and constructing elaborate alibis to avoid harsh sanctions.

Case #2: Suspected plagiarism

Lily (not her real name) stormed into my office last year, demanding a lawyer. She explained that she had been charged with plagiarism on a research paper. She had been told that she faced failing the class, along with a possible suspension. Despite long discussions in class, warnings in the course calendar, and strong statements on her syllabus outlining the consequences of academic dishonesty, she admitted to me that she didn't believe it could happen to her.

She wanted me to "make it all go away." She was disappointed and annoyed when I told her that my role was to be her advisor only and that it was up to her to write a letter of appeal. I would be happy to guide her through the process, but, as I explained to her, only she knew what was happening in her mind as she wrote the paper, so she was the only qualified person to compose the appeal.

She grudgingly wrote her appeal letter, blaming others for her misfortune throughout the submission. Never once did she admit to any transgression. In the end, she lied to the appeal board about having another commitment and didn't show up for her own hearing. She had directed me to present her case for her, and again I explained my responsibility to remain neutral and urged her to reconsider attending her hearing.

Since her case was heard *in absentia*--without her testimony--the Appeal Board had little choice but to uphold the suspension.

Following the hearing, I received angry phone calls, first from Lily and then from her parents. Despite the fact that I described my role in detail, they were furious that I hadn't defended Lily at her hearing. How dare I not represent her in the best light? Again, I clarified that my role was only to advise the students, as a neutral third party. They were insisting that I become her advocate. Despite my refusal, Lily never once showed any interest in becoming involved.

Lily was presented with multiple opportunities to assume responsibility and learn from her mistakes. She was unwilling to do so, even after lengthy discussions about the potential insight she could gain. No amount of encouragement could convince her to participate in her own hearing, and, of course, no outcome except complete exoneration would have been acceptable to her.

Lily's refused to become empowered. Empowerment, as defined here, requires active participation of the student. No one, not even an ombuds, can force a student to become empowered. It is an internal transformation: a decision a student makes to be active rather than passive. Moriarty & MacDonald (1991) state that students need the opportunity to develop their **own** sense of empowerment so that they may build their capacity to assume responsibility for their own well being.

Lily's response was in sharp contrast to most students', who, when advised that they will be responsible for their own appeals, are apprehensive but open to the idea. It requires a daunting amount of work, but the extent to which they can learn and grow is immeasurable.

Application of Empowerment

Post-secondary institutions focus on education, but there is more to education than merely what our students learn in the classroom. As difficult as many of their predicaments can be, students find infinite opportunities to apply those critical thinking and problem solving skills we purport to teach in the classrooms. Many students have never before been faced with circumstances where they must hone their skills to such a degree; they require critical skills for communication in conflict, time management in the face of strict deadlines, dispute resolution, public speaking, effective writing, assertiveness training, anger management, diplomacy and negotiation skills.

In every appeal I have been involved with, whether academic or disciplinary, these skills have been essential, and I have tried to ensure that each student had at least a basic grasp of all of them. Regardless of the outcome, many students have indicated to me that they had learned a great deal about conducting themselves in conflict situations. That is the most valuable lesson they can learn; indeed, it can be generalized to all aspects of life.

At times it may be tempting for ombuds to take on the problem ourselves. We know the system, we know who has power to make changes, and we could easily make a few phone calls on the student's behalf. By removing the responsibility from students, however, we are also removing their power and their opportunity for growth.

The position of post-secondary ombuds is a difficult one. We are expected to be third-party neutral. Given that our services include guiding students through appeals and other matters, it becomes difficult to draw the line between advice and advocacy. We choose to address the problem by advocating for fairness and by steering students through the process.

Throughout my time as ombuds I have discovered that, by giving students the information they need to launch and control their own appeals, we are also giving them a voice that they may not feel they had before. In reality, the opportunities have always been there but students just need to be pointed in the right direction. It is an educational process in which students have the chance to learn a great deal about how to manage their own academic lives.

Student empowerment is the result of both an inner transformation based on experience and a decision to actively participate in one's own life. That transformation often occurs in small increments but it feeds upon itself, building confidence and competence bit by bit. By necessity, it must be facilitated by those who have the opportunity to do so. University and college ombuds are par of the academic community, and as such we have a responsibility to the students. Not only must we ensure due process and fair treatment, but it is also our duty to provide our students with the opportunity to become empowered. They deserve to learn, grow and transform into self-confident adults with a post-secondary degree **and** a skill-set that prepares them for life within, and beyond, their education.

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Reflections of a Budding Ombuds: The First Two Years

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Introduction

This article is a portion of a larger work in four parts that is the physical by-product of responding to an internal prompt. It is a prompt to pause and pay respect to the ombudsing profession by reflecting upon the first two years of my journey within the ombuds' profession. I find taking time to pause and reflect to be one of life's greatest pleasures. Pause for meditation and consideration of process after intensive periods of growth stretches one's respective mental and spiritual edges and enables one to integrate large chunks of new material. The portion of the reflection addressed within this article is that of the unfolding of an ombuds practice in five phases: an unexpected door, assistant to the ombuds, ombuds education, observation and co-facilitation, and beginning the practice.

Phase I: An Unexpected Door

I.A. How the profession found me. Geoffrey Wallace, UCSB's University Ombudsman of over 30 years, is both my supervisor and colleague. I first became aware of Geoffrey's existence when I was a student at UCSB. I would observe him walking toward our University Center, with his hands behind his back, oftentimes wearing a bowtie. It was evident that he walked with awareness within the world. His shock of white hair, white beard, and commanding pres-

ence set him apart from others. We never spoke --yet something about the way he carried himself, his thoughtful gaze, and his knowing smile inspired me. Additionally, it seemed as if he knew some special secret that greatly amused him. I sensed a kindred spirit and looked forward to his passing by. It was not until many years later, after I was finished with my educational process and settled in Santa Barbara, that I had the opportunity to meet Geoffrey.

I came to know Geoffrey personally while involved in an informal think tank that gathered to discuss humanity's future. His contributions confirmed my previous convictions. I began to experience Geoffrey first hand as a man of integrity, genius, wit, and boyish charm--passionate about life and passionate about justice.

At this phase in my life, the business I was working for was going through some changes which required that I seek new employment. I decided that who I worked for was more important than what I did. I called three people whom I admired and let them know I was looking for work. Geoffrey Wallace was one of the three I contacted. There happened to be an opening in the ombuds' office. I applied, interviewed, and was hired.

At the time I was hired I had no idea why life had opened this particular door. Sometimes life plants us in places we least expect. Later we discover that some ineffable essence shrouded in mystery conspired with our muse to plant us in exactly the right place at exactly the right time. Life had been preparing us all along for the next chapter.

I. B. Internal inventory. I am ashamed to admit that I was entirely clueless about ombudsmanship when I first began working in the UCSB ombuds office. *Ombuds* was a strange name I had difficulty pronouncing despite my experience with languages. To be quite honest, I was in search of a solid "bread & butter" gig (what artists call their "day jobs") to support one of my primary passions--art in all shapes, forms, and sizes.

Ombudsing is not like other professions (e.g. law, mediation, psychology, engineering) which require specific training or certification in order to practice. From research I have conducted, I have found that the educational background and work experience of campus ombuds is extraordinarily diverse. I have discovered many instances of ombuds' being hired from within an educational institution from a different department. I have heard comments from several ombuds that they were placed on the job with little or no understanding of the ombuds' process. They merely took it day by day and learned with each new complaint handled.

One would think that, because ombudsing is a form of dispute resolution, a background in law, alternative dispute resolution, or counseling would be most suited to the profession. Although such backgrounds are extremely helpful, one need not feel inadequate if he or she is not well versed in these disciplines. There are other opinions and factors to consider. In 1980 Dr. Geoffrey Wallace shared his impressions about "the best background" for an ombuds in an interview conducted by the Center for the Study of Democratic Institutions.

Wallace stated:

> The best background for an ombudsman is a liberal education and a judicious temperament. Strictly legal and administrative approaches tend not to be the approach of the ombudsman, which is reasoned persuasion. Secondary major skills of the ombudsman are the ability to empathize and to organize." (Wallace, 1980)

This comment was a source of inspiration during the unfoldment of my ombuds' practice. I found it extremely valuable to take an internal inventory in order to determine what strengths and weaknesses I was bringing to the profession that had chosen me.

In addition to liberal education, I add the following factors: personality type, one's "natural" conflict-resolution style, educational experiences, work experiences, life experiences, student experiences, and gender. It is my hope that this section will inspire other ombuds to take an internal inventory of the talents and abilities that inform their practice and to share their findings with the ombuds community. My experience is only one out of countless ombudsing experiences. I am certain that others, with entirely different backgrounds than mine, draw from rich personal resources that enable them to brilliantly serve their community as campus ombuds.

I.B.1. Personality type. One of the first things I did when I began working at the UCSB ombuds office was to conduct research about personality types and the ombuds' profession. I took the Kiersey personality test and discovered I was an ENFP, or champion personality type. I found information published by the US Department of Interior titled "Connecting Personality Types with Careers and Jobs." Of the 16 personality types listed, I found ombuds listed under one type, ENFP--The Champion Style (<http://www.doi.gov/octc/typescar.html>). (I do not believe that one single personality type is the right type for an ombuds; my colleagues have different personality types and, in my experience, are brilliant ombuds). I recently revisited the description of an ENFP after I had read much literature, co-facilitated many cases, and handled some cases of my own.

I was struck by an abstract impression that flowed through me as a humble and profound "Aha," which revealed why this personality type might be suited to ombudsing. For an ENFP, nothing occurs which does not have some deep ethical significance; they are "eager to relate the stories they've uncovered, hoping to disclose the 'truth' of people and issues" (<http://keirsey.com/personality/nfep.html>).

In my experience, this touches upon the spiritual/moral core of ombudsing, which is found within a personalized work in progress I've created to articulate my present understanding of an ombuds' practice (which will undoubtedly change as I continue to change, grow, and evolve).

The complaint handler's impartial and independent presence exudes the essence of justice, fairness, and ethics within the container of confidentiality. Although the complaint handler maintains a formal relationship with an entity--the campus he or she is affiliated with--he or she resorts to informal processes when serving the community as a complaint handler. The ombuds upholds the potential power of advocating for fair processes. The vision is acted upon by harnessing the winds of persuasion, reason, and empathy. With a curious multifaceted mind, he or she uses multiple intelligences to engage in the arts of listening, asking questions, and strategizing to develop possible courses of action to assist the client in complaint resolution.

In handling the complaint, the complaint handler honors the client's unique experiences and acknowledges existing processes, structures, and guidelines defined by the entity with which the ombuds has a formal relationship. Complaint handlers have at their disposal multiple hats hanging from a colorful hat rack representative of the many roles they use in the process of complaint resolution. There is the hat of the coach (Brown Sebok 2001), the advisor (Vice 1994), the change agent (Wagner 2000, Hasenfeld 1995), the educator, mediator, information disseminator, counselor/therapist, playing field leveler (Anderson 2001), restorative justice facilitator, peacemaker, and others.

Together, the complaint handler and the client chart possible courses of action. The client chooses a course that best suits his or her unique situation and is empowered to sail his or her own vessel. The complaint handler makes him- or herself available to coach the client through unexpected changes, passing through turbulent channels to places of resolved calm. With passage of time, the complaint handler receives a delightful message in a bottle. "Problem resolved. Thank you. Signed, the Client"

In this image, the ombuds is a single part within an intricate puzzle with four basic pieces that interconnect in obvious and not so obvious ways. The four basic puzzle pieces of an ombuds' system include the complaint handler, the complainant (client), the spirit of ethics, and a system created and organized by humankind with its own culture, principles, and power structures. Each one of the four parts can be readily subdivided into many different components that affect the problem solving process. Given the complexity of the puzzle, it serves the ombuds well to hold within one's mind's eye the pulse of the abstract notion of ethics--not that the ombuds should be so proud as to believe that he or she is the definitive judge of what is fair but rather to trust that the fair process pertinent to the given situation will manifest in a fashion that is just right, given the components. Through trust and facilitation the subcomponents of the four basic puzzle pieces surface for configuration, deconfiguration, reconfiguration until an outcome occurs which manifests the vision of a fair and ethical process.

I.B.2. "Natural" conflict-resolution style. The Thomas-Kilmann Conflict Mode Instrument identifies five possible responses to conflict. I do not believe that any particular "natural" conflict-resolution style is most suited to the profession; however, I believe an awareness of one's natural style is extremely beneficial.

Of the five possible responses, my natural style is that of a collaborator, the owl. The owl "confronts openly and fairly, is optimistic about conflict," and seeks out win-win situations for all involved. The owl listens carefully and sympathetically.

In the past, this proble-solving style led to an exasperating work situation, where the director I was collaborating with in a group of eight other individuals possessed a different conflict-resolution style that did not value democracy. Although the group as a whole was extremely energized, appreciative, and inspired that an assistant director would factor their wants, needs, and concerns into the project, progress was impeded by our different styles. At the time I was not aware of my natural conflict style. If I had been aware at that time of the differences, I am certain that conflicts would have been much easier to resolve within the group.

However, I can appreciate how this particular style serves the ombuds' practice well. Ombuds as complaint handlers deal with conflict daily. Being optimistic about conflict enables an ombuds to be comfortable with working with clients on developing and implementing conflict-resolution strategies. The natural impulse to seek out win-win situations supports a conflict-resolution strategy defined in Roger Fisher and William Ury's book *Getting to Yes*--that of separating the people from the problems to focus on interests (Fisher, Ury 1983). Such an approach to conflict resolution and negotiation results in a win-win situation. Additionally, in my experience, ombudsing has much to do with the art of empathetic listening. The natural impulse to listen carefully and sympathetically is an asset to an ombuds, whose day-to-day practice incorporates listening to clients' stories with an empathetic ear in order to gather relevant information pertaining to a case.

1.B.3. Educational considerations. My own educational background is in the arts (visual arts, theatre, music, dance, choreography) and economics (business economics, cultural economics). I must admit that I initially cowered when thinking that an artist could have anything to contribute to an ombuds' process. Artists traditionally adopt alternative lifestyles, live on the fringes of society, challenge existing authorities, and are generally undervalued and misunderstood within American culture. A closer look assures me I have no reason to cringe or cower. I am inclined to nod at my muse in knowing admiration and pause to wonder: how many other ombuds were equally surprised by the discovery that a particular form of education cultivated the necessary skills to be a good ombuds?

The single, most important lesson I have learned from my 15-year relationship with the arts is to trust and value the process as opposed to a product or an end goal. The arts have taught me

to seek to walk with integrity within every moment. Creation, as the greatest work of art (in my experience), has its own quizzical expression of integrity. We as humans abide within the greatest work of art; and, therefore, have the potential to realize lives of great integrity. Ombuds, like artists, act as visionaries when containing ethics within the mind's eye to work their way toward the vision of manifesting a fair process. Making art is much about being honest; serving a community as an ombuds is much about being honest.

Ombuds exist as a spiritual or moral advisors within systems that may or may not have built in expressions of integrity, ethics, and an awareness of the interconnectedness of all life forms. It is my observation that the American culture currently values production, efficiency, equity, maximization of profits, test scores, labels, marketing, and sundry other things that in my opinion have contributed to creating a planet out of balance. Philosophically, ombudsing is a part of a peacemaking culture that works toward restoring balance in a system out of balance--encouraging humankind to realize humanity's potential for harmony, to reconcile dualities, and to blur black-and-white considerations in order to embrace a broader scope of living. This function can be viewed as humanizing bureaucracy.

Resolving complaints is also about problem solving--problem solving that requires both the ability to utilize left brain **analytical** problem-solving skills and right brain **creative** problem-solving skills. Art is predominately about accessing and engaging the right side of the brain; realizing an artist's vision requires keen analytical problem-solving skills.

Each case is unique unto itself, impacted by the complex makeup of the client, individuals involved, culture of the campus with which the ombuds has a formal relationship, and at times the culture of the community at large. Each case has a complex makeup, which might include elements such as: how the client copes with conflict; personal, and educational goals; political structures; emotional, spiritual, and mental makeup; the life lesson to be derived from the challenge confronting the client; and so on. Trusting the process becomes essential. This means trusting that the solution just right for the situation will surface at exactly the right time, in exactly the right place, to support the ombuds' and client's work--peacemaking within the fabric of humanity.

The training I received as a dancer-choreographer required cultivation of intelligence on multiple levels: body intelligence; memory intelligence; emotional intelligence; spiritual or energetic intelligence; musical intelligence; time, space, and energy intelligence; and intellectual intelligence.

The value of body intelligence is summed up by D.H. Lawrence:

> My great religion is a belief in the blood, the flesh, as being wiser than the intellect. We can go wrong in our minds. But what our blood feels and believes and says, is always true. The intellect is only a bit and a bridle." (<http://www.quotemeonit.com/lawrence.html>)

Additionally, the lifework of a dancer-choreographer requires an ability to multi-task in order to put bread and butter on the table while pursuing a vocation that more often than not results in time and money outlays that exceed the economic rewards from performance and production.

Ombudsing in its modern form has diversified and grown beyond the basic function of complaint handling and often requires multi-tasking: service to the client as a complaint handler, contribution to the ombuds community, implementation and maintenance of conflict-resolution programs, collaboration with colleagues, carrying out administrative responsibilities, and so forth.

Additionally, ombudsing requires employment of intelligence on multiple levels when serving the client. For instance, the ombuds confronts

emotional components in the ombudsing process. A dancer works to access, recognize, and be comfortable with the full gamut of human emotions; they are finely integrated within one's artistry. Ombudsing requires sensitivity to non-oral communication through energetic expression as well as gestural expression. Dancers and choreographers become masters at interpreting and working with such expression to manifest an artistic vision. Choreographers who self-produce must familiarize themselves with production processes and be adept at marketing, managing budgets, creating production schedules, and working with collaborators from different fields. Ombuds utilize these skills in maintaining an office and collaborating to produce annual conferences.

As an artist, I became proficient with innovation, improvisation, and brainstorming. Within the ombuds process, one uses brainstorming in order to surface options in resolution of a complaint. As an artist, one becomes accustomed to thinking of novel and even subversive approaches. The process in and of itself is much like a structured improvisation. Campus ombudsing as a relatively new field--In 1966 the first campus ombuds was appointed in Eastern Montana College--affords many opportunities for innovative responses to existing scholarship. There is tantalizing potential for expanding existing boundaries of understanding.

With regard to my educational experience as an economist, the most important factor is the ability to appreciate the interconnectedness of factors that affect both a microcosm and a macrocosm--that is to say, how the manipulation or alteration of one element will affect the activity within a theoretical framework. While engaged in the intricate process of complaint-resolution problem solving, one relies on instinct and education to evaluate how certain courses of action will impact a scenario on both a micro and macro level. (The individual complainant is a micro expression; the entity in which the ombuds maintains a formal relationship is a macro expression.) Hence, the training one receives as an economist can be readily applied to an ombuds' complaint-resolution process.

I.B.4. Work experiences. My work experience is as diversified as my education and includes work as an economics educator; founder and executive director of a nonprofit arts organization; retail management; artistic consultant, performer, and administrator for a professional modern dance company; work as an arts educator; and work as a waitress.

Now what in the world could such a lowly occupation as waitress provide that would augment an ombuds' process? People, people, and more people--people of all cultures, religions, occupations, social strata, shapes, and sizes. Service to an incredibly diverse populace. The ombuds' profession is a service, a service that contributes to the process of peace. Cultivating the ability to communicate on all levels with all walks of life serves the process well for a campus ombuds who serves faculty, staff, and students who walk every walk of life imaginable.

My work in education has prepared me for the teaching aspect of ombudsing. Stanley Anderson's article "Ombudscholars" points out that one of the roles an ombuds plays is that of an educator (Anderson 2001). A student comes in with a complaint about a grade. The ombuds educates the student regarding existing policies and procedures relevant to contesting a grade. A client comes in alleging sexual harassment. The ombuds educates the client about existing sexual harassment policy and informs the client of an existing sexual harassment officer on campus qualified to handle the complaint. A client comes in and complains about inappropriate behavior on the part of a faculty member. The ombuds educates the client about an existing faculty code of conduct and guides him or her in the process of resolving the complaint.

An additional benefit of being an economics educator is the ability to break down complex theories into simpler language that is readily understood by students. I became well acquainted with the process of creating simplified forms that

broke through language barriers to enable students to focus on cultivation of the analytical problem solving skills required to excel in their coursework. This ability can enable one to contribute to the expansion of ombuds theory through recognize and analysis of existing processes and structures within an ombuds system.

I.B.5. Life experiences. Life experiences with the potential to inform an ombuds' practice include my love of travel, my firsthand experience with the therapeutic process in trauma and recovery, and my student experiences at UCSB. Travel cultivates an appreciation and respect for cultures other than one's own. It is not altogether uncommon to encounter situations in one's practice which require the ability to suspend one's cultural view in order to better serve a client from a different cultural background than one's own.

With regard to the transformational process engendered by the therapeutic process, two notions come to mind. As a by-product of the therapeutic process, I cultivated a profound sense of peace within my soul coupled with a transformation of my world view. There was no longer one "right" and "true" way within a black-and-white world but rather an appreciation for a multitude of vantage points, existing within many shades of gray. Being healthy of spirit, soul, mind, and body enables one to anchor into a place of peace when playing the role of peacemaker. It is more difficult to assist others in sorting through their conflicts when one has not sorted through his or her own. As an ombuds, being able to take in multiple perspectives enables one to effectively identify the full gamut of complaint-resolution options as well as to prepare for cross-cultural exchanges.

Stanley Anderson lists the therapeutic role as one of the many roles an ombuds plays in the problem solving process (Anderson 2001). The ombuds may often embrace a therapeutic role. The ombuds often is presented with the singular perspective of the client, as opposed to the process of mediation, where parties engaged in a dispute are present to give their views. Similar to the stance of a therapist, the ombuds honors and respects the veracity of the client's experience. Clients work through their problems and gain experience in conflict resolution.

The simplest of therapeutic considerations is the power of the empathetic listener. Many clients may enter the ombuds' realm seeking simply to be heard and to be validated. Once the story is told, they are relieved from any proclivity to act out in anger. The client exits the ombuds' process having been heard, validated, and supported. At times there may be contentment drawn from knowing that there within the system someone has been made aware of unjust, unfair, unethical actions being carried out within the bureaucracy.

I.B.6. The student experience. My undergraduate work was completed at UCSB. Student experiences enabled me to gain familiarity with the campus layout, its community, and resources that exist for students. The student community is a part of the campus community that UCSB ombuds serve. In the structural considerations of an ombuds' process, familiarity with the structural elements of a campus community is essential in that ombuds deal with the component of ombudsing daily. Additionally, I have found that my experiences as a student on campus enable me to empathize with students who have encountered similar challenges I faced as a student.

I.B.7. Gender. Before I consider the topic of gender, I frankly state that I don't perceive myself as sexist. Although current research may cite differences between the male and female experience, the research itself is not conclusive for all individuals. Men often possess qualities that are traditionally deemed female, and women often possess qualities that are traditionally deemed male. In my perception, healthy persons realize both the female and male aspects of their psyches. On the other hand, research indicates that differences between the sexes exist. Cultivating awareness of these differences enables one to work from a more informed position and may help when troubleshooting for misunderstandings.

Ombudsing is much about the art of listening; hence, listening becomes an important consideration. Research indicates that women lis-

ten with both the right and left sides of the brain, while men listen with only the left lobe (<http://jol.rsna.org/pr/target.cfm?ID=14>). An awareness of how males listen, as opposed to how females listen, provides important information pertaining to how male clients listen to me, as well how my male colleagues listen to me.

Additionally, research by Cheryl A. Piccard presented findings that concur with David Maxwell's conjecture that there are male and female mediation styles. Piccard showed that the "majority of men used 'problem-solving' concepts to describe their style," while the "majority of women used 'relational' language" (<http://www.carleton.ca/~cpicard/dissertation/>). Insofar as the process of ombudsing draws from common conflict-resolution techniques, it might very well be that there are male and female ombudsing styles.

I.B.8. Disadvantages. In addition to considering the experiences that support an ombuds work, it is also important to consider one's shortcomings. Ignorance and lack of experience posed the largest challenges for me. Although the UCSB ombuds' office does not offer legal advice, a background in law enables one to readily educate clients about pertinent legal processes (e.g., small claims court, shoplifting laws, laws pertaining to landlords and tenants, laws pertaining to disability, intellectual property rights). Additionally, my ignorance in the areas of ombudsing, conflict, and conflict-resolution theory provided educational challenges.

Phase II: Assistant to the Ombuds

Working as an assistant is an excellent way to acquire an introduction to ombuds' practice. The work affords one the opportunity to observe first hand the operations of a complaint- resolution office. The assistant is the first individual to establish contact with the client. When appropriate, the assistant conducts intake interviews to assist both the university and associate ombuds and thereby becomes an integral component within an ombuds' process.

In an intake interview, the assistant gathers background information for the ombuds: the individual's name, status (student, staff, or faculty), contact telephone number, what offices they might have visited before hand, the "story," pertinent players in the story, what courses of action have been taken, etc. At this time, good listening skills, a strong intuition, and knowing what questions to ask serve the process well. Sometimes intense emotions come into play while the intake interview is being conducted, and the assistant must be prepared to support a traumatized client. Additionally, first hand experience within the office affords the assistant opportunity to familiarize him- or herself with pertinent policies, procedures, guidelines, and the campus community and affords opportunity to conduct ombudsing-related research. Often the associate or university ombuds will rely on the assistant to conduct research to assist the ombuds in the complaint-resolution process. Additionally, during the occasional lulls that occur in ombuds office activity, the assistant can conduct research that is ombuds-education specific.

Following are examples of this assistant ombuds' responsibilities pertinent to cultivating an ombuds practice:

- conduct intake interviews
- manage budgets
- participate in fiscal closing procedures
- conduct special projects
- hire, train, and manage work-study students
- create and distribute promotional literature
- oversee the ombuds' Website
- do research for cases
- maintain and organize the ombuds' library
- maintain the Stanley Victor Anderson library
- oversee Pepperdine University interns.

Phase III: Ombuds' Education

The next phase in developing an ombuds' practice was building a foundation through ombuds' education. The majority of the work was self-directed and proved quite challenging. I began with the obvious: sifting through office resources and familiarizing myself with the office mission statement and definition of an ombuds, as well as viewing the UCSB campus Website. In the 2001 CCCUO *Journal* article "Orienting the New College or University Ombuds," Brown and Sebok stated that such considerations "provide basic information about the purpose of the office and how it functions" (Brown, Sebok 2001). After this initial exploration, I let curiosity be my guide and began to educate myself. Considerations included: campus-community education, policy perusal, ombuds-community education, ombuds and conflict-resolution resources, books, journals, doctoral dissertations, first-person views, training manuals, self-assessment tools, video tapes, handouts and notes, ombuds' annual reports and case studies, standards of practice, commentary on the American Bar Association 2001 Report and Proposed Standards, ombuds' privilege and confidentiality, and bibliographies. I stress that this work is merely a beginning because continuing education helps to cultivate sound ombuds' practice. It is my hope that it will inspire dialog within the campus ombuds community on the essential components of curriculum for a master's degree in ombudsing.

III.1. Campus community. Often ombuds interface with other departments within their community when conducting investigations, gathering information, making referrals, and collaborating on alternative dispute resolution. Cultivating an awareness of campus culture is an essential building block in developing the foundation skills to inform an ombuds' practice. Following are steps I took to familiarize myself with the campus community:

- read the campus directory to develop awareness of the different academic, administrative, student, support resources, existing on campus
- read the general catalog, student handbook, schedule of classes
- visited campus Websites
- perused campus-organization charts
- created file folders for each academic department with the intent of gathering information about administrative support, department chairs, and faculty.

As a practice grows, additional steps might include social calls with important members of the campus community.

III.2. Policy perusal. When ombuds handle complaints, an existing policy, procedure, and/or guideline is often integrated into the process of complaint resolution. At first glance, the material one encounters about pertinent policies can be overwhelming. In that the learning curve is quite steep for new ombuds, Geoffrey Wallace suggests handling issues one case at a time. I found the idea of spending an inordinate amount of time trying to memorize every rule and regulation not only tedious but a waste of time.

A more practical approach has been to cultivate policy awareness by creating a policy-procedure-guideline library, which makes relevant information readily accessible for advising and information gathering. As new problems surface or information needs updating, the library expands. Brown and Sebok say that awareness of policies and procedures assists in "beginning to learn about the formal organizational culture" of the one's institution (Brown, Sebok 2001). Some of the items in the policy library include:

- UCSB Sexual Harassment Policy
- UCSB Academic Senate Faculty Code of Conduct
- A binder containing all UCSB policies, procedures, guidelines for formal grievance processes

- Academic Dishonesty Statement
- UCSB College of Letters and Science petitions: e.g., adding and dropping classes, retroactive adds, retroactive withdrawals
- UCSB Teaching Assistant Rights and Resources
- UCSB Campus Regulations Applying to Campus Activities, Organizations, and Students
- UCSB Human Resources Personnel Policies for Staff Members
- UCSB Academic Personnel Procedures (Website bookmarked)
- UC University Wide Policies and Procedures (Website bookmarked)
- University of California Policies Pertaining to Research (Website bookmarked)
- Whistleblower Protection Policy

Additionally, in that ombuds at times look to policies, rules, guidelines that are not created by the UCSB system, I have found it handy to have this information easily accessible as well. Following are some of the external policies and information utilized:

- Americans with Disabilities Act Handbook
- California State and Local Responsibility for Indigent Health Care (We have had several cases of students incapacitated by accidents, without health insurance, in need of assistance.)
- Small Claims Court Basics (We don't give legal advice, but we will educate a client about an existing process.)
- State of California, Department of Consumer Affairs' "A guide to Residential Tenants' and Landlords' Rights and Re sponsibilities"
- Workplace bullying rules.

III.3. Ombuds community. The educational benefits from identifying and interacting with one's community are invaluable in informing practice. Ombuds scholar Stanley Anderson wrote, "We learn from another. We teach by example." (Anderson 2001). I imagine that it would be relatively easy for ombuds running a "solo show" to feel isolated within their work. If one's office is small, one has to look to other venues to find one's community. Following are the projects, research, and activities that have helped to cultivate an awareness of the ombuds' community.

III.3a. On-line community. I recommend visits to campus-ombuds' Websites and the Websites of the following professional organizations: University and College Ombuds Association, International Ombudsman Institute, The Ombudsman Association, United States Ombudsman Association, and the Association of Canadian College and University Ombudspersons.

III.3b. California Caucus of College and University Ombuds. I attended the California Caucus of College and University Ombuds' Asilomar 2001 conference "The Ombuds Way: Affirming Institutional Humanity"--a fine learning experience that cultivated a sense of one's place within the campus-ombuds' community.

III.3c. Mentorship. I sat in on frequent debriefings and reflections with UCSB University Ombuds Geoffrey Wallace and UCSB Associate Ombuds Geoffrey Stearns; developed a relationship with ombuds Michael Chennault of UC Irvine to talk about ombudsing topics fairly regularly; received support and encouragement on a research project from Cal Tech Ombuds Jan Schonauer and guidance from Stanley Anderson in research for a writing project.

III.4. Research. I interacted with the ombudsing community through implementation of a case-study project and a videographic ombuds' oral history project.

III.4a. Case-study project. In Spring 2002, I sent invitations to 103 campus ombuds to participate in a two-part project: a questionnaire about ombuds' education and work experience and case-study research. The basic idea of the case-study project is to gather case studies from colleges and universities to illustrate, through articulation of process, the work of the organizational contributions of ombuds scholar Stanley V. Ander-

son to ombuds scholarship. Participants included: Geoffrey Wallace, Stanley V. Anderson, Michael Chennault, Misa Kelly, Ron Dexter, and Sergei Onishenko. The project is in its final editing phase.

III.4, Ombuds' and conflict-resolution resources. Over a period of two years, I located books and articles from varied sources: existing materials in the UCSB ombuds office; the California Digital Library-Melvyl System; Internet-available articles, bibliographies, dissertations; handouts from the 2001 CCCUOA conference at Asilomar; and various video and audio tapes. As previously stated, this is what I consider a first pass with regard to examination of existing literature. The items I found particularly useful in building a foundation of understanding are included in the appendix (p. 54).

V. Mediation training. Ombudsing is a form of conflict resolution that is a part of a larger field of alternative dispute resolution, of which mediation is also a part. Geoffrey Wallace, in his article "Recent Role Variations in the Ombudsman in Education," pointed out that the "[o]mbudsman has a very different role than the mediator" (1993). Although ombudsing and mediation are two roles with processes unique to each system, due to the fact that they both deal with conflict resolution, concepts gleaned from mediation training are readily woven into the campus ombuds' process. Mediation is one of the roles an ombuds may carry out while functioning as a complaint handler (Anderson 2001).

In Fall 2001, I completed the Center for Dispute Resolution Mediator Certification program taught by Kenneth Cloke in Santa Monica. Cloke teaches a North American, eclectic style of mediation. His eight-step process consists of: setting the stage, listening to stories, acknowledging the emotions, surfacing the interests, solving the problem, negotiating the differences, reviewing the agreements, and closing the process (Cloke 2001).

At times the UCSB ombuds puts on the hat of a mediator (Anderson 2001) to resolve a complaint; training as a mediator therefore becomes a must. Cloke's mediation training provides an understanding of fundamental concepts that are integrated within the UCSB ombuds process/system, including the nature of conflict (historical, legal, practical, structural, spiritual, and psychological), storytelling, listening techniques, how to respond to power imbalances, emotions, and cross-cultural and ethical questions (Cloke 2001).

By the time I had completed the first stage of my cursory ombuds' education, I had a sound understanding of some of the ombudsing basics, including but not limited to the following:

- how to pronounce the word "ombudsman," an awareness of gender neutral terms (ombuds, ombudsperson, ombuds officer), the word's etymology and word's history
- familiarization with ombuds' "Standards of Practice"
- understanding of the essential characteristics of a campus ombuds: confidential, impartial/neutral, independent, informal
- awareness of the spiritual core of ombudsing: fairness, justice, ethics, humanizing the system
- understanding of the power of an ombuds: reasoned persuasion (Wallace 80), publication, criticism
- understanding of ombuds' history
- familiarization with the areas of disagreement between different categories of ombuds
- understanding of the Swedish ombuds' model
- understanding of ombuds' roles and how an ombuds' process differs from a mediation process
- clear understanding of the nature of conflict and conflict resolution
- understanding of the "cousins" to ombudsing in the field of conflict resolution

- clear understanding of the mediation process and the different styles within that field
- sound grasp on the current state of ombuds' confidentiality in relation to adopting a shield law
- awareness of the copious types and categories of ombuds, how they evolved, how they differ
- awareness of the 2001 ABA report and recommendations and responses to changes from the ombuds' community
- understanding of the structural and functional components of an ombuds' system
- very strong sense of what I was still hungry for.

What I hunger for. I did not find a document that served as a beginner's manual for new ombuds. I was looking for something that tied together all the loose bits of history scattered throughout ombuds' scholarship to create both a tidy package that reconciled the many types and categories and a document that placed campus ombudsing within the big picture of ombudsmanship. I wanted a document that presented simple notions such as how to pronounce the word *ombuds,* as well as discussion of the word's etymology; a breakdown of ombudsing into its simplest components; an explication of areas of disagreement within the ombuds' profession and an attempt to develop a universal ombuds' language, description of function, articulation of process, and vision for the future.

I did not find a document that clearly articulated the difference between ombudsing and mediation. My first impression in my early days in the UCSB ombuds' office was "It's like mediation." Later, I have discovered that mediation and ombudsing can be found within the exotic basket of alternative dispute resolution, yet comparing the two is something like comparing kiwis to mangos.

I did not find a broad representation of the ombuds' experience within case studies that provided a view of an ombuds' work with clients behind closed doors. I hoped to find illustrations of cases that would reveal differences in style among ombuds.

Most importantly, I did not find a document that identified the process of an ombuds comparable to descriptions of process in fields of mediation, law, and counseling and therapy.

Of course, my not finding such documents doesn't mean that they do not exist. I look forward to feedback from the ombuds' community that may uncover resources to supplement my ombuds' education. Meanwhile, I will also attempt to satiate my hunger by answering my own questions through research, contemplation, and writing--the second portion of the reflection process.

Phase IV: Observation and Co-facilitation

After conducting a personal inventory, working as an assistant to the ombuds, and pursuing an ombuds' education, I thought I was well prepared for the process of cultivating a practice through observation and co-facilitation. I discovered that what one learns from theory pales next to the value of experiencing the art of ombudsing first hand. Again, I recall that Stanley Anderson's words: "We learn from another. We teach by example." (Anderson 2001).

I have had the extraordinary good fortune to be teamed with an ombuds with a similar personality, who is from an entirely different educational and work background--one who is a brilliant ombuds. My trainer, Geoffrey Stearns, has over 30 years of experience as both an attorney and a mediator. His style of ombudsing has informed my own natural impulses. He has illustrated the value of slow and deliberate process in proceeding with resolving a conflict: I tend to be more compulsive, spontaneous. He has illustrated the value of humor, often opening a session with a joke or two to set the client at ease: I tend to be much more pragmatic and efficient.

He has illustrated the fine art of listening, asking questions, surfacing the story, validating an experience, and strategizing. He has illustrated how to interject eloquently when a client is caught

in a state of overwhelm by pausing and inserting, "Excuse me. I want to make certain I've understood you." He then reflects back and redirects the flow of storytelling. Although able to acknowledge emotions and easily manage them, he uses a problem-solving style, whereas I also use a problem-solving approach that tends to be relational, signifying my eagerness to uncover motives that lie below the surface.

Stearns opens the process to welcome my input, often reiterating my views to the client to assure that they are taken into consideration. Most importantly, he has illustrated the value of reflection and debriefing, often drawing the University Ombuds, Geoffrey Wallace, and me into dialogue for comments and guidance.

Phase V: Practice

I now have the official title "Assistant Ombuds." My work builds upon the background of the first four phases of my educational process, which has enabled me to gain a keen understanding of an ombuds' process. It has also enabled me to appreciate my role within the big picture of ombudsing.

I incorporate all I have learned and commit myself to the time, place, and space that my muse has granted me--and suppress a giggle as I look over my shoulder. Yes, my muse knew better than I. I now have a satisfying balance between work and play. I trust that my life work asks of me much more than the journey of an artist. It widens the path to embrace the work of a peacemaker in the profession of a campus ombuds. It is a profound bread and butter gig. May my talents serve the community well.

Closing

I emphasize that this work represents one path--perhaps the right path. My style may not be better than any another person's style. This is merely my journey.

In that ombudsing is a form of art, the creation of an ombuds' practice might very well be like the creation of a dance. No two choreographers choreograph alike. No two dances create themselves in the same way. Each ombuds is unique. Each process of building an ombuds' practice is unique. I eagerly look forward to informing my budding practice through dialogue with fellow ombuds about their journeys.

III.4a. Books:

Ombudsmanship

The Ombudsman Handbook: A Practical Guide to Establishing and Operating and Ombuds Office on a College or University Campus (UCOA 1995)

If I were to give someone new to the field of ombudsing a first document, it would be this work, which provides a concise overview of the work of the campus ombuds. It establishes a sense of place from which one can broaden one's understanding of ombudsing.

The International Handbook of the Ombudsman (Caiden 1983)

This compilation of articles by several ombuds and ombuds scholars covers topics such as ombuds history, the ideological foundation of the ombuds, ombuds' roles, and ombuds in industries other than government (e.g., university, prison, health care). Much has happened since 1983, yet this book is timeless.

The Swedish Institution of Ombudsman: An Instrument of Human Rights (al-Wahab 1979)

A fundamental building block for ombuds practice, this comprehensive view of the initial modern ombuds model enables a thorough understanding of the Swedish institution of the ombudsman, founded in 1809. Knowing where one's practice originates and how it evolved is an essential part of the educational process.

The International Ombudsman Anthology (Reif 1999)

This wonderful collection of previously published articles (in the International Ombudsman Institute's *International Ombudsman Yearbook*, formerly *International Ombudsman Journal*) has six sections: present and future roles, surveys and perspectives, human rights protections, adaptations of the ombuds' model, issues of jurisdiction, and ombuds' process.

IOI is primarily comprised of public ombuds, though ombuds from institutes, specialty ombuds, and private sector ombuds also belong. The work created within the IOI community is an excellent complement to campus ombuds' scholarship. While the campus ombuds' offices I know about are largely North American models, the work of IOI has a global perspective. IOI has members from 111 countries, divided into six regions: Africa, Asia, Australia & Pacific, Caribbean & Latin America, Europe, and North America. I appreciate the international flavor and am inspired by the high degree of excellence within this community's ombuds' scholarship. Exposure to the work of IOI broadens one's perspective on ombudsing within different categories of ombuds; a broader perspective serves practice better than a specialized or limited view.

When Americans Complain (Gellhorn 1966)

This work is on Dr. Wallace's MUST READ list.

Ombudsman Readings (Anderson 1980)

Stanley V. Anderson, professor emeritus of UCSB and one of Dr. Wallace's mentors, is recognized as one of the pioneering ombuds scholars (along with Stephen Hurwitz, Donald Rowat, Walter Gellhorn, and Larry B. Hill); he is,

therefore, an important scholar whose work must be studied. In Anderson's words, "The office of Ombudsman was not created so that scholars might study it. We study the Ombudsman office so that it may better perform its functions" (Anderson 1980).

Anderson was present as an ombuds scholar during a delicate period for a nascent profession, when he worked with others to help define the structure, purpose, and origins of ombudsing.

Ombudsman Readings contains a collection of 19 of Anderson's works.

Conflict Resolution and Mediation

Getting to Yes (Ury, Fisher 1983)

This book is a cornerstone text that describes the four principles for effective negotiation: separate the people from the problem; focus on interests rather than positions; generate a variety of options before settling on an agreement; insist that the agreement be based on objective criteria. These principles are a "critical part of what ombuds do when talking with visitors and people with whom visitors have conflicts" (Brown, Sebok 2001).

Center for Dispute Resolution: Mediation Training Manual (Cloke 2001)
Mediating Dangerously (Cloke 2001)
Mediation, Revenge and the Magic of Forgiveness (Cloke 1994)

Nothing I could write would aptly convey the importance of this man's work, which explains multiple levels of intelligence and synthesizes analytically and creatively. These books are the work of a pioneering visionary, who redefines the limits of mediation and conflict resolution. Ombuds should seek him out at the Center for Dispute Resolution in Santa Monica, California for his help as an educational resource.

The Promise of Mediation (Bush, Folger 1994)
Designing Mediation: Approaches to Training and Practice within a Transformative Framework (Bush, Folger 1994)

These books clearly articulate the principles of the transformative style of mediation, a technique that ombuds sometimes use; however, a more eclectic approach, such as the style taught by Kenneth Cloke or Jim Melamed, is even better suited to ombudsing. In the transformative approach, reaching an agreement is secondary to the principles of empowerment and recognition. These authors value process as opposed to product. In their words, transformative mediation "helps parties recognize and exploit the opportunities for moral growth inherently presented by conflict." The concepts of recognition and empowerment can readily be woven into an ombuds' process.

The Dynamics of Conflict Resolution (Mayer 2000)

III.4b. Journals:

The Journal of the California Caucus of College and University Ombuds

My advice: read it, and read it all. This annual collection of articles enables one to gain a sound understanding of existing campus ombuds scholarship that will richly inform one's practice. Most issues are available online.

The Negotiation Journal (16 Number: 1 2000)

This issue has six outstanding articles that highlight the work of ombuds: "The Ombudsman: What's in a Name?" (Gadlin, 2000).

"Varieties: Has the Ombudsman Concept Become Diluted?" (Steiber)
"The Practice of One Ombudsman" (Bauer)
"The Institutional Ombudsman: A University Case Study: (Shelton)
"The Organizational Ombudsman as a Change Agent" (Wagner)
"The Ombudsman, What's in a Name" (Gadlin).

The International Ombudsman Yearbook (formerly *Journal*)

Ombuds scholarship from the IOI community completes the picture by contributing perspectives from work largely by classical ombuds, as opposed to organizational ombuds. (Most campus ombuds are categorized as organizational ombuds.)

III.4c. Doctoral dissertations:

The University Ombudsman: 100 cases (Gadway 1986)

Ingrid Gadway provides a view into the campus ombuds' process from a single ombuds' practice. While Canadian campus ombuds tend to include case studies in their annual reports, United States campus ombuds tend not to. These case studies provide an inside view into the process of ombudsing, studies that are otherwise difficult to find.

III.4d First-person views:

Ombudsman on the Campus (Wallace 1980)

Reflections of a First Year Ombudsman (Sebok 1991)

Someone new to the profession longs to identify with someone else who has experienced ombudsing firsthand and communicates it in a down-to-earth, oral fashion.

III.4e. Training manuals:

Center For Dispute Resolution: Mediation Training Manual (Cloke 2001)
Civil & Workplace Mediation: Training Manual (available free online) (Melamed 2001)

III.4d. Self-assessment tools:

A Style Index for Mediators (Melamed 2001)

A guide that cultivates an understanding of particular approaches to or styles of mediation

The Thomas-Kilmann Conflict Mode Instrument

A tool for identifying one's natural conflict resolution style.

The Kiersey Personality Test

Just for fun.

III.4e. Videotapes:

The Nature of Conflict: Kenneth Cloke

A seminar given at UCSB [n.d.]

Restorative Justice: A New Approach to Campus Offenses (Office of the Ombuds, University of Colorado at Boulder)

III.4f. Handouts and notes:

Tom Sebok at the University of Colorado at Boulder has a collection of one-page handouts that are packed with information: "The Practices of a Good Listener," "Negotiation Strategies," "Writing a Letter: A Tool for Conflict Resolution," "The Power of Apologies," "Informal Strategies for Responding to Sexual Harassment and/or 'Boundary

Violations,'" "Talking with a Professor About a Grade," "Responding to Complaints" (CCCUO Conference, Asilomar 2001).

Handouts for New Ombuds Workshop (CCCUOA Conference, Asilomar 2001).

III.4g. Ombuds annual reports and case studies:

I recommend no report or case study in particular; many are available on-line by using a good search engine, such as Google, to locate them.

III.4h. Standards of practice:

American Bar Association 2001 Report and Proposed Standards
University College Ombuds Association Standards of Practice
The Ombuds Association Code of Ethics and Standards of Practice

Standards of practice are power-packed multivitamins, essential for nourishing ombuds practice.

III.4i. Commentary on the American Bar Association's 2001 Report and Proposed Standards:

The United States Ombudsman Association has published seven letters and documents in opposition to passage of the ABA proposal and four that support the ABA standards or rebut opposition to passage of the standards.

III.4j. Ombuds' privilege and confidentiality:

A shield law that would assure that neither an ombuds nor ombuds staff would have to disclose confidential information in any judicial or administrative proceeding has not yet been established. The following items can increase awareness of the current climate of opinion on this matter:

- University of California Office of the General Counsel: April 14, 1997 letter and at tachments to Sheila Gottehrer on "Ombudsman Privilege"
- "Preserving the Privilege of Confidentiality" (Ferguson 1998)
- "Changes in Mediation Confidentiality" (Fisher 2000)
- "Garstang v. Superior Court" (<http://caselaw.lp.findlaw.com/ca/caapp4th/year/1995_10.html>)
- "Proposed Model Shield Law" (<http://www.usombudsman.org/References/modelshieldlaw.htm>)

III.4k. Bibliographies:

Perusing existing ombuds bibliographies can be overwhelming for a new ombuds. Filtering the following bibliographies for items that would serve for first-year training (perhaps within an ombuds master's program, still to be created) would nurture new ombuds' education. My hope is that ombuds within the campus ombuds' community will begin dialogue about existing resources to develop a materials list for new ombuds.

- Stanley Victor Anderson Bibliography
- Dr. Geoffrey Wallace's selected bibliography
- Catherine Morris's selected online bib liography "Ombuds Offices: Classical and Organizational"
- UCCOA's "Ombuds Bibliography--Colleges and University"

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